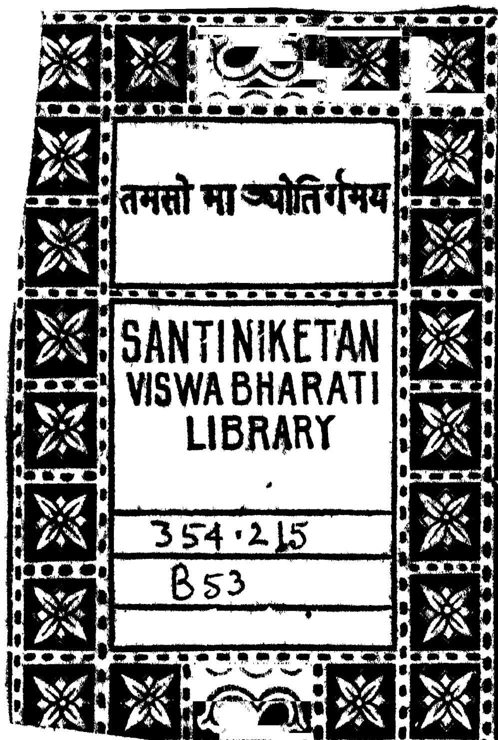


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THE ORIGINS OF PROVINCIAL AUTONOMY

THE ORIGINS OF PROVINCIAL AUTONOMY

Being a history of the relations between the Central Government and the Provincial Governments in British India from 1860 to 1919.

BY

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PREFACE

The Government of India Act 1935 envisaged the establishment of autonomous provinces as constituent units of an Indian Federation. Provincial autonomy is its basic idea, as the contemplated Federation presumes the existence of provinces independent of outside control, and responsible for their government within defined limits. It is the object of the present work to sketch the progress of the emancipation of the provinces from central control.

I have endeavoured to analyse the steps leading to, and the many factors responsible for, the evolution of provincial autonomy. The book forms a history of the relations of Provincial Governments with the Central Government in British India from the time of their complete subordination to the Government of India till 1919 when they attained a position of relative though limited independence. Provincial autonomy is the product of a long period of constitutional development extending from 1860 to 1919. Its foundations had been laid soon after the Mutiny when centralisation was found to be both inconvenient and prejudicial to administrative efficiency. Since then the Provincial Governments have gradually achieved freedom from superior control in legislative, financial and administrative spheres. The constitutional Reforms of 1919 gave statutory recognition to this administrative practice

and partially introduced some elements of autonomy in the provincial field. The preliminary stage of provincial autonomy was thus reached in 1919.

This book is based on the records of the Indian governments published and unpublished, preserved in the India Office, London, and the Imperial Record Department in India, as well as on the non-official sources, speeches and writings of the Indian political leaders, proceedings of the Indian National Congress and other political associations of an earlier period.

I am greatly indebted to the Right Honourable Sir Tej Bahadur Sapru, P. C., K. C. S. I., LL. D., for his constant guidance and encouragement. I am grateful to my teacher Prof. H. H. Dodwell of the School of Oriental Studies, London, to Sir William Marris, ex-Governor of the United Provinces, and Dr. Sachidanand Sinha, Vice-Chancellor, Patna University, who read the manuscript and offered their valuable criticism. I have been greatly benefited by their suggestions. The book owes much to their sympathy and guidance. I am also grateful to my friend Dr. Banarsi Prasad Saksena whose advice and help were always available to me, and who kindly compiled the Index. My thanks are also due to Mr. Otevile, Keeper of the Records, Indian Office, London, for affording me all possible facilities for my work.

10 March 1941. } BISHESHWAR PRASAD.

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CHAPTER I

CENTRALISATION BEFORE 1860

Statutory position before 1833.

The progress of the East India Company as a great political power in the eighteenth century revealed the need for co-ordination of its military resources and unity of political control throughout its territories in India. The existence of three mutually independent Presidency Governments, each with its separate army and a parochial political policy, was an anomaly. The Regulating Act attempted to remedy this state of affairs by empowering the Governor General of Fort William to superintend and control the government and management of the Presidencies of Madras and Bombay, "so far and in so much as that it shall not be lawful" for the Presidency Governments to declare war or make peace, or negotiate any treaty with any Indian Prince without the consent of the Governor General and Council.[1] A central authority, for strictly limited purposes, was thus created for the territories under the rule of the East India Company. But it was a vain attempt to subordinate the other two governments to that of Bengal, owing to the ambiguity of the law. It resulted in conflicts with the Presidency Governments during the administration of Warren Hastings. The first definite step, however,

[1] Regulating Act, 1773, Clause 9.

was taken in 1784 when the India Act authorised the Governor General to control the Presidents in Council in "all such points as relate to any transactions with country powers, war, peace or to the application of the revenues or forces of such Presidencies in time of war", and also attached a penalty to the disobedience of his orders.[1] The importance and usefulness of the central controlling, coordinating authority being realised, the next charter strengthened it effectively.

The East India Company Act of 1793, while vesting the "whole civil and military government" of the Presidencies of Fort St. George and Bombay respectively in the Governor and Council thereof, empowered the Governor General and Council to "superintend, control and direct the several governments and Presidencies of Fort St. George and Bombay", not only in political and military matters but also in "the collection or application of the revenues............or the forces employed at any of such Presidencies............or the civil and military governments of the said Presidencies............"[2] To avoid any ambiguity, the next clause enjoined upon the subordinate Presidencies the duty of obeying "such orders and directions of the said Governor General in Council in all cases whatever, except only where they shall have received positive orders" to the contrary from the Court of Directors.[3] Further the Supreme

[1] Pitt's India Act 1784, sections 31, 32, 35 and 36.

[2] Charter Act 1793, clauses 24 and 40.

[3] Charter Act 1793, clause 41. Clause 43 emphasised again the restriction on the powers of the Governor in Council respecting declaration of war or negotiation of peace.

Government was to be kept continuously informed of the proceedings and acts of the two Local Governments.[1] These powers of supervision over the other Governments, were legally complete. But in practice they did not in any great measure diminish the discretion of the Local Governments in the administration of the territories under their charge. The difficulties of communication, the peculiarities of local circumstances and the regular correspondence between the Presidency Governments and the Court of Directors, made them virtually independent administrations with separate laws and regulations, exclusive civil and military establishments, and divergent "methods of taxation and financial procedure" often determined by local peculiarities of land tenure.

Position under the Act of 1833.

When the circumstances were such, the Parliament of the United Kingdom decided to open the gates of India to all subjects of the King. This decision required unity of administrative control and uniformity of the laws and judicial systems in all parts of British India.[2] Consequently, in securing these ends, the Act of 1833 carried the process of centralisation one step further. The original idea seems to have been to establish a strong unified central administration by vesting "the whole civil and military Government" in the Governor General of India

[1] Charter Act 1793 clause 44.

[2] Despatch from the Court of Directors to Bengal No. 44 (Public), dated 10th December 1834, paras 9 and 11.

in Council.[1] The Bill, as introduced in the House of Commons and reported after the Committee was intended to make the central authority a real active controlling body. Under this Bill the Presidency Governments would have dwindled into the position of mere subordinate executive agents of the Government of India. If centralisation of authority was the main purpose, the Bill was well planned to achieve that end. But it was whittled down and the final Act which emerged out of the legislature did not express the position so unequivocally.

By Section 39 of the Act the "superintendence, direction and control of the whole civil and military government of all the territories and revenues" was vested in the Governor General of India in Council.[2] He was to be the sole authority for making laws for all persons and Courts of Justice. The subordinate governments were deprived of all powers of legislation.[3] Further, the Governor General was to be the final financial authority in India in so far as no Presidency Government could create any new office, or grant any salary, gratuity or allowance without his previous sanction.[4] The superintending and controlling authority of the Government of India was reaffirmed in a subsequent section of the Act and the Presidency Governments were bound, it was declared, to obey the

[1] Bill, The Government of India 1833, submitted to Committee. (Parliamentary Paper 1833) Sections 38, 55, 58, and 64.

[2] The Charter Act 1833, Section 39 (P. Mukerji : Indian Constitutional Documents, pp. 43-48)

[3] Act 1833, Sections 43 and 59. [4] Ibid, Section 59.

orders of the Governor General in Council in all cases whatsoever,[1] while the provisions of the Act of 1793 enjoining the Local Governments to keep the Supreme Government informed of their proceedings, were repeated.[2]

In interpretation of the Act, the Court of Directors addressed an important despatch to the Government of India in which general instructions were given for the guidance of the Indian governments. This despatch outlines the new functions of the Governor General in Council.[3] Its underlying note is the desire to strengthen the Supreme Government "in consequence of the free admission of Europeans into the interior of the country".[4] Hence new legislative powers were conferred on it and, at the same time, "the legislative powers hitherto possessed by the subordinate governments are to be modified and abridged", so that all the functions of legislation be collected and united "in one central and metropolitan government".[5] The legislative supremacy of the Central Government was the fundamental point of the new Act. Discussing further the changed character of the Government of India, the Directors wrote, "the powers here conveyed (Section 39) when the words are interpreted in all their latitude include the whole powers of Government", and also "the whole civil and military government of India is in your hands, and for what is

[1] Act 1833, Section 65. [2] Ibid, Section 68.

[3] Despatch from the Court of Directors to Bengal, No. 44 (Public), 10th December 1834. (Letters from Court of Directors, 1834, Imperial Records Office)

[4] Ibid, para 10. [5] Ibid, para 11

good or evil in the administration of it, the honour or dishonour will redound upon you[1]". But with respect to the powers other than legislative, the Directors desired "a correct line" to be drawn between the functions which should belong to the "general government" and those "which properly belong to the local and subordinate government". A minute interference on the part of the Government of India with that portion of the business which was to be left in the hands of the Local Government would not be desirable. Vigilance and preparedness to interpose if occasion demanded it, was all that was necessary. The Court of Directors themselves were unable to draw the line of discrimination between the functions of the Local and the Central Government, and left it entirely to the goodwill of the Government of India.[2] Finally, they did not deprive the two older provincial governments of their right of direct correspondence with themselves, though the Government of India would immediately receive copies of all the important letters.[3]

Judging from the provisions of the Act and the lengthy commentary of the Directors, it may be held that the chief purpose at this time was to create a supreme law-making power, as well as to emphasise the supervisory and controlling authority of the Supreme Government. The Government of India was intended to be a real general government which would make laws for all provinces and, while permitting

[1] Despatch 10 December 1834, para 78.
[2] Ibid, paras 80-84.
[3] Ibid, para 85.

the Presidency Governments a legitimate exercise of their executive authority, would supervise and regulate their work. That it should concentrate all the threads of executive and financial administration in its own hands, does not seem to have been the intention of the Act, though a few years' experience proved its effect to be otherwise. That was ultimately so because of the concentration of all legislative activity and the financial needs of the Central Government during a period of constant wars.

The three Presidency Governments were retained, and, in addition, a fourth charge, the Governorship of Agra, was to be instituted. The status of the two divisions of the Presidency of Fort William was not like that of the two older ones. A more minute control and a closer superintendence by the Government of India was permitted in their case as the details of their administration would be brought more closely under the eye of the Supreme Government owing to its proximity to them.[1] But the Governments of Madras and Bombay were "to retain their executive capacities", and have command over separate army systems. In political matters too, on the representation of the Government of Bombay[2], the subordinate

[1] Despatch (Political Department) No. 18 of 27 December 1833 (Political Department, Letters from Court of Directors, Vol. 37, Imperial Record Office), para 12 ;

Also Despatch of 10 December 1834, paras 87-95.

[2] Original Consultations, Political, 21 November 1834, No. 14. Minutes of Governor of Bombay and other Councillors dated 16 and 30 September and 4 October 1834. Also Letter from Madras, Political Consultations, 19 September 1834, No. 2.

governments retained charge of the relations with a number of Indian States.[1] Even in legislation, a close preserve of the Supreme Government, the Directors conceded to the Presidency Governments the right of proposing "drafts or projects of laws or regulations" bearing on essentially local matters. The entire field of legislative activity was considered in two main divisions, general and local; and with regard to the latter, permission to propose drafts and make suggestions for legislation by the Supreme Government was given to the subordinate governments.[2]

Evidently the subordinate Presidencies were not deprived of their customary administrative powers, which were likely to come into conflict with any unmitigated centralisation, if that was the intention of the Parliament. At the same time, the connection of the Governor General in Council with the Government of Bengal still continued to excite the jealousy of the other two Presidencies, for they could not with complacency submit to the rule of what they regarded as another Presidency Government. The privilege of corresponding directly with the authorities in England allowed to the two older governments was another source of weakness and inconsistent with centralisation. Over and above all this, the concern of the Directors for an assignment of functions to the Local Governments with which a minute interference

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[1] Bengal Letter to Court of Directors (Political) No. 12, 20 November 1834, paras 5-11;

[2] Despatch, dated 10 December 1834, paras 33-36.

would not be necessary, and their anxiety to conserve to every subordinate government its due rank and power, invested them with a special status.

In the early stages, the Government of India was fully conscious of its general supervisory character, and, though "invested with all the powers of government over all parts of India and responsible for good government in them all", did not attempt any needless meddling with local affairs. The new Act came into operation in 1834. At once questions relating to control over political officers, appointment of civil servants in the Presidency of Agra, and the financial discretion of the Local Governments in the entertainment of public establishments, were referred to the Government of India. In its rulings at this time, it took a liberal view of its controlling authority. With the exception of specially important charges, it delegated control over diplomatic agents to the Local Governments.[1] Appointment to offices other than memberships of the Sadar Court and the Sadar Board, in Agra and Bengal was left to the respective Local Governments.[2] All appointments in the Presidencies of Bombay and Madras were made by the local Governor in Council. Even in matters of finance, the Government of India informed the Government of Madras "that, although no new office can be created without previous sanction of the

[1] Original Consultation—Political—21 November 1834, No. 2.

[2] Evidence of William Wilberforce Bird, Esqr. Deputy Governor of Bengal before Parliamentary Select Committee, 1852, Q 1001 and 1111.

Governor General in Council, it was never designed to prohibit the additions, without previous reference, which may be found absolutely requisite to the establishment of offices already existing."[1] Over other items of provincial expenditure it did not as yet exercise any minute control.

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[1] Quoted in Letter to Court of Directors, No. 12, 20 November 1834, para 22.

Also letter to Bombay, 16 June, 1834 (Ootacamund Proceedings, Political, No. 8 of date.

Bombay Government had asked sanction for the following items of proposed expenditure :—

(1) The repair of a large tank at an expense of Rs. 1000.

(2) The disbursement of Rs. 1643 for the completion of Bridge at Bassein.

(3) The completion of a dam at an expense of Rs. 3000.

(4) Construction of a Mamlatadar's Kutchery.

(6) Rewards to two persons etc.

The Government of India replied : "That in the opinion of the Governor General in Council the charges specified (above) might properly have been incurred by the Bombay Government without any previous reference for the sanction of the Government of India.

"That Section 59 of the Act 3 and 4 Will. IV. cap 85,........does not prohibit the Local Governments from sanctioning without reference any addition which may be deemed necessary to the establishment of offices already existing.........or the disbursement of the ordinary contingent expenses including the customary rewards for services rendered or the usual charges on account of Tank repairs and other works, the neglect of which would prove detrimental to the public interests.

"In the judgment of the Governor General in Council no more was intended by the Legislature in framing the

But the position changed rapidly. Many factors arising out of the implications of the new Act and the gradually altering conditions of Indian administration led to the stiffening of control by the Government of India. It considered "general finance", "Political Resolution," Army and Public Instruction as coming under its special jurisdiction.[1] It was forced to keep a close control on finance as the supreme financial authority in India. And as finance is the main-spring of administrative machinery, almost all matters of government were brought by that means under its direction. The Supreme Government jealously guarded its function of determining the general principles of government and permitted no deviation from them.

Growth of Centralisation, due to:—

Meanwhile by the Act of 1835, the creation of the Presidency of Agra was suspended, and a Lieutenant Governor was appointed to that province who was to be immediately responsible to the Governor General in Council. The Government of Bengal was carried on by a Deputy Governor, who was a member of the Supreme Council. Thus, these two Local Governments were in a greater measure

above provision than that no substantive office in addition to those already existing should be created by the Governments and no extra personal emoluments should be conferred by them beyond what is authorized by the established custom of the service without affording to the Supreme Government an opportunity of judging as to the necessity of the proposed new office and the propriety of the extra disbursement".

[1] Public Proceedings, Government of India, 20 May 1835.

subordinate to the Supreme Government unlike the Presidency Governments. They had no independent legal powers, but merely exercised authority delegated to them by the Supreme Government. The presence of these two Local Governments, inferior in status to the others, was bound insidiously to affect the position of the older Presidencies in pursuit of a natural desire for uniformity. Development henceforth was in these directions.

(i) Exercise of financial authority.

The financial authority of the Government of India was exercised, during this period, in controlling the expenses on establishments, pensions and allowances, and public works. At the same time, measures seriously affecting the public revenues also evoked its interposition. In all these matters control by the Supreme Government became gradually more rigid.

Subordinate governments were not competent by law to create any new office or grant gratuity or allowance to any person without the previous assent of the Supreme Government, which, in its turn, had to submit all such proposals for the sanction or confirmation of the Court of Directors.[1] The Government of India was by that means afforded the opportunity of judging the necessity and propriety of the proposals, before reporting them to the final sanctioning authority. In 1834 it had been held that only new creations, and departures, from customary

[1] Letter from Court of Directors (Political) No. 18, 27 December 1833, para 15.

services were to be governed by this provision.[1] But in 1836 this view was modified and the prohibition extended to cover "any increase to existing establishments" without the previous sanction of the Government of India.[2] A concession, nevertheless, was made in as much that "it should not be necessary to make separate reference" on "every trifling augmentation of establishment, or of increase to the allowance of existing incumbents", and that a tabular statement "showing the increase considered indispensable during the month", should be submitted at the end of it.[3] This concession was withdrawn in 1843, and it was rendered imperative on the Local Governments "to refer for sanction before granting any, the smallest increase that may be proposed."[4] Gratuities and pensions, except those specifically provided for by the rules, were granted by the orders of the Court of Directors in each case, and all such references were to be made through the Supreme Government. The Government of Bombay, nevertheless, had been permitted to approach the Court "without the intervention of the Government of India".[5]

The general practice however remained for the Local Governments to submit all proposals regarding pensions or allowances, for the sanction of the

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[1] Letter from the Government of India to Bombay. No. 8, dated 16 June 1834, para 4 (Ootacomand Proceedings).

[2] Government of India to Bombay, Revenue Dept. No. 54, dated 13 June, 1836. [3] Ibid.

[4] Government of India Resolution, 8 December 1843.

[5] Letter to Bombay (General) 10 May 1837.

Government of India. The number of such references is astounding. Proposals for the creation of new offices or additions to existing public establishments included all sorts of offices from the lowest to the highest, from a peon on Rs. 3 a month, to a high official on Rs. 2000. Additions to the salary of the existing public servants, increase of staff to the existing grades, or establishment of new services, all required reference to the Supreme Government for sanction. In striking contrast to the practice of the other provincial governments, the Presidency of Bombay however seems to have made a practice of referring such matters to the Court of Directors and not to the Government of India.

Similarly, with regard to Public Works. In 1830 the Directors had ordered that no public work, the estimated cost of which exceeded Rs. 10,000, could be sanctioned by the Presidency Governments on their own authority, but required sanction of the Court.[1] The practice was for the three Presidency Governments to sanction schemes for public works, within that amount, without reference to the Court of Directors. There was no immediate change in this practice after 1833. The Government of India reminded the Government of Bombay in 1837 of the existence of this limitation on the latter's power.[2] In 1839 the Directors extended the limit for the Governor General in Council to Rs. 50,000

[1] Despatch of the Court of Directors, 31 March 1830.
[2] Letter from Government of India to Bombay, dated 27 November 1837.

and for the Governments of Bombay and Madras also, but in their case subject to "the approval of the Supreme Government being previously obtained in each case[1]". The Bombay Government considered itself free under these instructions to sanction on its own authority expenditure on schemes of public works costing up to Rs. 10,000, but made reference to the Supreme Government if the estimate exceeded Rs. 10,000 and did not exceed Rs. 50,000, and direct to the Court if it exceeded Rs. 50,000. The Government of India under this arrangement would review schemes of public works only if the estimate lay within these two figures[2]. We do not know definitely the practice of the other Local Governments, but it seems that until 1846, the procedure of the Bombay Government of making direct reference to the Court of Directors on questions of salaries or public works without approaching the Government of India, was singular. The latter Government objected to that course in 1846[3] and, despite protest by the Government

[1] Despatch of the Court of Directors to Bombay No. 1, 30 January, 1839.

The interpretation placed by the Supreme Government on the above is expressed in a letter to Bombay dated 4 May 1844 (Marine) as follows:—

"The Court by those orders extended to the Government of Madras and Bombay the power of expending on certain works to the extent of Rs. 50,000 without the Court's previous sanction conditionally on the approval of the Supreme Government being previously obtained in each case".

[2] Minute by the Governor of Bombay, 16 October 1846, Para 13.

[3] Letter to Government of Bombay, No. 1272, dated 11 June 1846. (Political Proceedings, 26 December 1846).

of Bombay, issued a rule that "all questions, involving an increase to fixed salaries or establishments, or respecting the undertaking of new works or other operations involving a demand upon the resources of the State should be, in the first instance, submitted for the consideration of the Supreme Government".[1]

The two northern provinces, not having direct access to the Court of Directors, were more amenable to financial control by the Government of India, and all proposals involving expense, whether relating to individuals or to public works, were submitted for its sanction. But the two southern Presidencies, particularly Bombay, strengthened by their privilege of direct correspondence with the authorities in England, were not so docile. Questions respecting salaries, pensions, the creation of new establishments in almost all the departments of administration, and public works of varying magnitude, formed subject of direct reference to the Court of Directors. A memorandum drawn up by the Government of Bombay in 1846 gives a list of such references till that date, from that Presidency.[2] The practice of Bombay

In reply, the Government of Bombay forwarded a Memorandum showing the cases in which direct reference was made to the Court, and the Minutes of the Governor and Councillors describing the practice of that Government. (Letter from Bombay, 17 October 1846.)

[1] Letter to Bombay, Foreign Dept. No. 2326, dated 7th Nov. 1846, para 3.

[2] Letter from Bombay to Government of India, dated 17th October, 1846.

so far as creation of new offices and increase of pay were concerned was clearly illegal though the Local Government no doubt regarded it as justified by custom and convenience. While matters affecting emoluments of individuals were explicitly placed by law within the jurisdiction of the Supreme Government, the same was not true about expenditure on public works. However, owing to the need for economy in public expenditure, the Government of India now asserted its legal right of general control over the revenues of India, and included all charges, public works and others, as coming within its jurisdiction. In fact, its orders attempted to make the exercise of financial authority of the Governor General in Council uniform in all the provinces. This may be regarded as the first conscious move made by the Supreme Government in the direction of centralisation.

It was generally recognised that the Supreme Government must possess complete control over all the finances of the country because it was responsible for the solvency of the Empire. Constant wars during the last twenty years of the Company's rule accentuated the need for this control. Deficits were a recurring feature, so much so that out of the last twenty-five, eighteen were deficit years.[1] In these circumstances the Government of India was driven to scrutinise, as closely as possible, the details of provincial expenditure. Under the rule of Hardinge and Dalhousie supervision became closer. Further, the financial

[1] Bannerji: Provincial Finance in India, p. 17.

troubles caused by the Mutiny, compelled the Government of India to seek any means to rehabilitate its solvency. Resort was made to fresh taxation as well as to every practicable retrenchment. It was natural that, at this juncture, the Local Governments should be asked to co-operate in the efforts of the Supreme Government. The result was a great increase in the authority of the Government of India. Taxation, establishments, expenses on public works, in short every part of local adminstrative machinery felt the pressure from Calcutta. By 1860 the final stage in the march towards centralisation was reached. The controlling powers vested in the Central Government by the Act of 1833 had thus secured their fulfilment by the development of complete financial authority.

At the same time, the requirements of a growing and complex administration also helped centralisation.

(ii) Political and administrative needs.

Political relations with the States within the orbit of British paramountcy or with foreign territories needed one supreme guiding control. Uniformity of principles was necessary in the treatment of the Indian States, and with that it was essential that a close watch should be kept on the diplomatic agents in their application of established principles. The delegation of control to the Local Governments over the political charges in their proximity, given as a concession in 1834, could not therefore become effective.[1] The relations of Bombay with the Arab chiefs in the region of the Persian

[1] Loc. Cit. p. 8.

Gulf, or with the Amirs of Sind, and after the conquest of the latter, with the Khan of Kalat and other frontier states, or even with Baroda were effectively controlled by the Governor General. The dealings of the Government of the North West Provinces, never more than nominal, with the states of Rajputana and the Punjab, were taken over by the Central Government at a time of stress. Such also was the case with the armies of the two southern Presidencies. Full control over political affairs and military forces was vested in the Governor General in Council, and this authority was exercised by him without any limitation whatsoever. The daily business of these departments often required reference to the Government of India, and thus afforded the means of exercising a strict control.

(iii) Need for uniformity in general administration.

Similarly with internal administration. Being responsible for the good government of all British territories, the Government of India could not tolerate either negligence in the Local Governments or any violation of established rules. Hence constant vigilance was exercised. The proceedings of the Local Governments, regularly transmitted by them to Calcutta, were scrutinised and if any point called for attention explanation was demanded from them. As early as 1836, the Government of India took to task the Government of Bombay on the issue of two notices granting exemption from the revenue demand for five years in favour of the lands of certain districts upon which cotton or Mauritius sugar-cane might be

cultivated. It pointed out that considering the importance of the principle and the indefinite alienation of the government revenue, a reference to itself was necessary. The Government of India was opposed to the principle underlying the measure, and as uniformity of practice was desirable in such matters between one province and another, it ordered withdrawal of the notices.[1] Moreover, general rules dealing with civil and military establishments and administration were laid down from time to time by the "Home Government" or the Government of India, demanding constant references by the Local Governments, and these very often brought the whole local administration under review. Memorials also and appeals from public bodies or individuals against certain actions of the Local Governments, called for the interference of the Governor General in Council. But the most frequent occasions of interference arose when the Local Governments submitted for sanction any increase of charge on establishments. Every such proposal was scrutinised not only from the financial but also from the administrative point of view. Comparisons were made with similar charges in other provinces and suggestions, carrying almost the authority of orders, were made for adopting a system which had been found to be successful elsewhere. The key departments like Criminal Justice, Police and Land Revenue were generally the subject of close attention. No Local Government could be

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[1] Letter to Bombay Government, dated 30th November, 1836, and again letter dated 19th April, 1837.

allowed, without rebuke, to fall below a high standard of efficiency, and as it was desirable that uniform progress be maintained, the stragglers were whipped on to greater activity. Thus the need of administrative efficiency and uniformity of system led to a gradually increasing control on the part of the Supreme Government, and tended to the growth of centralisation.

Powers of the Local Governments.

It should not, however, be presumed that the Presidency Governments either willingly submitted to the domination of the Government of India or surrendered any of their powers. On the contrary, they resented interference by the latter and appealed, often with success, to the authorities in England, against the decisions of the Governor General in Council. The Lieutenant Governorships and the minor Administrations were amenable to control. Their administration was more closely scrutinised by the Government of India, and moulded according to its views. But in the two Presidencies the system remained isolated and retained all its peculiar characteristics. Moreover, the very constitution of the supreme authority precluded it from having any great interference with their internal government.[1] Burdened with the direct administration of Bengal, the biggest and the most important province, till 1853,[2]

[1] For a long period no member of the Governor General's Council was drawn from Bombay or Madras services.

[2] By the Act of 1833 the Governor General of India was also the Governor of Bengal. The executive Government of Bengal was vested by Section 56 in a Governor and

and with the settlement of the newly acquired provinces of the Punjab, Nagpur, Mysore, British Burma and Coorg, the Government of India had not the leisure to devote itself closely to the affairs of the Presidencies.

As has been stated earlier, the Act of 1833 declared that the executive government of each Presidency would be administered by a Governor in Council. He could not make laws or sanction new expenditure. But, otherwise, the whole administration, civil and military, was assigned to him. In the case of Lieutenant Governorships the Act of 1854 empowered the Governor General to "declare and limit the extent" of their authority.[1] But no such definition seems to have ever been attempted The Local Governments were competent to carry on the

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three Councillors. The Governor General was also authorised to appoint a Deputy Governor from the members of the Council (Section 69) when the exigencies of public business required it. It was usual for the Governor General to appoint a Deputy Governor during his absence from Calcutta but sometimes such a Deputy used to function even when the Governor General was present. Till 1853, thus, the Supreme Council was the Council for Bengal as well. Not before 1843 was the Secretariat for Bengal separated (Minute by Mr. Grey. Lt. Governor of Bengal, 13 March 1868). But the Governor General and Council had generally to conduct the administration of that province, as Lord Dalhousie had done. Marshman: Bengal as it is (1845) in Calcutta Review, Vol. III, page 169;

Campbell: Modern India, p 224, Strachey: India, p. 420; Sir Charles Wood's Speech in the House of Commons on 3 June 1853. Bengal Despatch to the Government of India dated 28 April 1854; Buckland: Bengal under the Lieutenant Governors, Vol. I, Introduction pp. xi-xx.

[1] The Government of India Act 1854. Section 4.

administration of their provinces, subject to the control and superintendence of the Government of India. Besides this general statutory authority, their powers were defined from time to time, by the Indian legislature in respect of particular acts of administration. This legal sanction comprehended diverse subjects, such as the organisation of civil and criminal courts, the determination of the jurisdiction of judicial authorities, establishment and discipline of police forces, the arrangement for the collection of customs duties, the control over municipalities, the appointment of executive officers and their dismissal, and matters relating to salt duty, inland customs, harbours, the control of European vagrants, jails, excise etc., etc.[1] It was always convenient for the Supreme Government to delegate, by law, the execution of the details of administration to the Local Governments. The functions which these Governments thus exercised were very comprehensive and included almost everything which affected the happiness of the people or the stability of the empire. The two Presidency Governments made appointments to all offices, both in the civil and military departments, carried out revenue settlements, in short, regulated

[1] *Eg.* Acts VII of 1835, XXIII of 1837, XXIX of 1845, IX of 1850 relating to Courts and their jurisdiction; Acts XX of 1835, XXIV of 1837, XXVIII of 1852, XIII of 1856, and XXIV of 1859 etc, relating to Police; Acts XVI of 1837, I of 1838, I and II of 1852 and XXIX of 1857 relating to Customs; Acts XXVIII of 1836, XXIV of 1840, XXII of 1841 and XXVI of 1850 relating to Municipalities; Act III of 1852 for excise; Act VII of 1857 relating to executive officers; Acts VIII of 1856 and IV of 1859 for Jails etc. etc.

the entire executive machinery of their territories. Other Local Governments, too, were responsible for the general administration of their provinces. The collection of revenue and its disbursement on the authorised public services was their function. In this they had in fact to follow the rules and regulations made for their conduct by the Government of India or the Directors, and to submit to the general superintendence of the Governor General in Council.

In the earlier pages it has been described how the controlling power of the Government of India in matters financial, legislative and political, led gradually to centralisation. At the same time it has been stated that the Local Governments were responsible for the administration of their provinces and were regulating the entire governmental machinery. The extent of this superior control and the degree in which it affected the working of the provincial governments may now be discussed.

The position of the Local Governments vis a vis the Central Government: (1) Legislation.

Legislative authority had been placed exclusively in the hands of the Governor General and his Council. The Act of 1833 attempted to differentiate legislative and executive functions and for this purpose added a member to the Governor General's Council who had no share in the executive government.[1] The next Act carried the process further, and established a virtual legislative council composed of members of the

[1] The Charter Act of 1833, Section 40.

Supreme Council, one representative each from the Local Governments and two judges of the Supreme Court, Calcutta.[1] All legislation, whether local in character or relating to all provinces in general, was centred in this body. The Local Governments sent their proposals to the Government of India or after 1854 instructed their official representatives to introduce those measures direct into the Legislative Council. But the Government of India always scrutinised such proposals closely and if unsuitable, smothered them either in its executive or legislative capacity. Such revision was generally administrative and was based on the controlling and superintending authority of the Supreme Government. The Local Governments resented this interference and especially after 1854, maintained that they had a right to place their proposals before the Legislative Council through their representatives without any intervention whatsoever of the Government of India. An expression of the feelings of the Local Government was made by Sir Charles Trevelyan, the Governor of Madras, in his dispute with the Government of India on the question of Income Tax.[2] He had asked the local representative to place on the table of the Council the views of the Government of Madras on the proposed Taxation Bill. But this procedure was counter-manded by the Government of India. On that the Government of Madras wrote

[1] The Charter Act of 1853, Section 22.

[2] Correspondence relating to Financial Measures between the Government of India and Madras Government, 1860. (P.P. No. 296).

to the Secretary of State, "We cannot suppose it to have been intended that this Government should also be entirely deprived of all influence over the legislation of the territories committed to its charge, and that measures affecting in the most vital manner the safety and welfare of those territories, should be taken in the Legislature without our having a voice in the matter."[1] Further, the Governor wrote, "The Legislative Council of India is a free deliberative assembly. Its constitution and forms have been carefully arranged on that principle. It stands in the place of the local legislature which this Presidency formerly had; the difference being that instead of taking a direct part in legislation, as this Government formerly did, we act through a representative".[2] The Government of India never recognised the position taken up by the Local Government and considered the Legislative Council essentially an adjunct of the Supreme Government to which members from Local Governments were added in order to supply local information. These members, it contended, could not be used as agents of their governments for conducting discussions between the Supreme and the Local Governments.[3]

[1] Despatch to the Secretary of State from Madras No. 34 (Public) of 19 April 1860, para 7. Correspondence on Financial Measures 1860. p. 175.

[2] Minute by the Governor of Madras, dated 1 May, 1860. Ibid p. 184.

[3] The Government of India's Despatch to the Secretary of State, 4th May 1860. Ibid. pp. 206-208.

The Secretary of State also held the same view that those members were not delegates.[1]

The position taken by the Governor of Madras was not and perhaps never believed by him to be tenable. He thought that the Legislative Council ought to be like the Imperial Diet in Germany in which were represented the different Presidency Governments, and that laws passed by the Council should be capable of veto as far as that Presidency was concerned by a mere statement of the Local Government that they were not applicable to its territories. This view, if admitted, would have established a loose confederacy in India, each unit being governed by an irresponsible bureaucracy. It was opposed to the intention of the Parliament and definitely against the interest of the British Empire in India. The Parliament had concentrated all powers of legislation in the Central Government with the purpose of strengthening it and securing uniformity of laws, compatible with local differences, in all parts of British India. It was fortunate that the Secretary of State, by his ruling, maintained the integrity of the Central Government.

Laws were made, during this period, by the Supreme Government for all provinces, local peculiarities being provided for by means of Acts having limited application. Owing to wide differences in the customs and manners of the people, as well as in the evolution of administrative machinery, it was not possible to have uniformity

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[1] Despatch from the Secretary of State to Madras, No. 1 (Legislative) 24 July 1860.

even in laws regulating civil and criminal courts or police organisation. The Presidency Governments insisted on retaining their own particular systems. Much of the work which fell to the Indian legislature was thus of a local character. It was proper that such local legislation should be conducted in the provinces themselves where local experience and public opinion could be brought to bear on it. The Presidency Governments were clamouring for a return of their legislative functions, and howsoever advantageous this centralisation of legislative power might have been, it was essential now that purely local matters should be assigned to local legislatures.

(ii) Finance.

In finance too centralisation was the chief note. It has been mentioned before that the Government of India gradually asserted its financial supremacy and regulated all revenues and expenditure of the whole Empire in India. Every addition to expenditure howsoever inconsiderable required its previous sanction. All taxation, its imposition and remission, was controlled by it. But as it was not possible to have uniform taxation in all parts of India, many local or provincial imposts were allowed to continue. Even in respect of salt duty or customs duty no equality of incidence was practicable, but the Government of India interfered from time to time to fix the salt duty in Madras or to lay down general rules for the levy of customs duty.[1] Purely local taxes, like the town duties,

[1] Letter to *Madras Government No. 107 dated 16th* November. 1836.

were also regulated occasionally by the Supreme Government. But latitude was oftener given to the Local Government to retain or abolish them. In the collection of land-revenue and its assessment the Local Governments of Madras and Bombay had a free hand. The northern governments could not secure the same autonomy, because of the closer proximity and fuller knowledge of the Government of India, as well as the experimental nature of settlements in the newly acquired territories. The Supreme Government generally laid down the principles of assessment and left the details to the Local Government except in the Punjab where final settlements had to be sanctioned by the Governor General in Council.[1]

The revenues of British India formed one purse out of which expenditure on definite objects was sanctioned by the Government of India. Its distribution was haphazard in the beginning, every item being sanctioned as it arose. No regular budget estimates were framed or sanctioned. Only in the matter of public works an estimate was required of all works and proposed expenditure on them since the time of Lord Dalhousie.[2] The system was productive of much waste and no close supervision of the Local Government expenditure could be possible. Also it led to bickerings and clashes almost every day. Mr. Wilson reformed this state of affairs by framing

[1] Note by Mr. Muir. *Public Proceedings*, 7 December 1867.

[2] Letter from the Court of Directors, No. 32 (Public) 24 May 1853.

his first Budget in 1860, which was to regulate all expenditure for the year. Till the Mutiny the control by the Government of India over financial transactions of the subordinate Presidencies could not be thorough in practice. The tendency to keep a tight hold on their expenditure and thus to superintend effectively all departments of administration grew largely owing to post-Mutiny financial derangement. It was then resented and habitually defied by the Government of Bombay which on many occasions spent huge sums of money on projects not sanctioned previously by the Government of India.[1] Sir Charles Trevelyan, Governor of Madras, protested against the imposition of income-tax in that Presidency and claimed a separate treatment for the southern province because of the peculiar position of the Presidency Governments.[2] Nevertheless the Government of India was now fully trenched in its position as the supreme financial authority in India and the Local Governments had to depend upon it for every pie they spent.

(iii) Political.

Political and military affairs were wholly conducted by the Government of India. All diplomatic officers were in direct contact with it, and policy towards states within or without the frontiers of India was determined by it, though its execution might be left

[1] Secretary of State's Despatch (Finance) No. 231 and to Bombay No. 89 dated 29 September 1864. See Note by Lt. Col. Dickens, Public Proceedings, 7 December 1867.

[2] Letter from Madras to Government of India No. 774 (Revenue) 11 June 1859. (Correspondence on Financial Measures, 1860.)

to some Local Government as its agency. The Governments of Bombay and Madras had each a separate army. They had also supervision over some political charges The Punjab Government was entrusted with the management of the frontier tribes and the relations with Afghanistan. But in all this it was merely acting as executive agent of the Government of India.

(iv) General administration.

The Local Governments, besides, carried on the internal administration of the country under the eyes of the Supreme Government. But, naturally in this the superintendence of the latter was incomplete. In the earlier years due to lack of swift communication all executive government was left to the discretion of the local authorities. Then, it was never considered desirable for the Governor General in Council to exercise any control greater than the determination of the policy of the state or laying down principles of Government. Its one main function was to review the acts of the Local Governments, to point out an irregularity with the request that it be not repeated. Regular transmission of the Proceedings of the Local Governments and their close scrutiny gave it the means of exercising an ex-post facto control over them.

The records suggest that the Government of India seems to have tried to enforce the due observance of the general principles of administration laid down by itself or by the authorities in England, though the details were left to the discretion of the

Local Governments. We find it emphasising the religious aloofness of the Government in its correspondence with the Government of Madras on the question of the administration of religious endowments.[1] The Government of Bombay was rebuked for the largeness of its Covenanted Civil Service and the policy of admitting Indians to public services was commended for adoption.[2] Such general questions as compulsory vaccination.[3] levy of export and import duties for municipal funds,[4] or emigration of labour to Colonies,[5] were determined by the Supreme Government. The structure of the civil and criminal courts, the organisation of police forces or the outline of general revenue administration met its consideration, and the model of Bengal administration was put forth before the Presidency Governments. But the two Governments successfully managed to retain their local peculiarities till a late date. In the northern provinces, entire administrative

[1] Letter to Madras Government, dated 7th December 1836.

[2] Letter to Bombay Government (General Dept.), 1 June 1836 (Cal. Records, Vol. 275)

[3] Letter to Bombay Government, 18 October 1837. (Vol. 275).

[4] Letter to Bombay Government, No. 95, 1 November 1837 (Vol. 275).

[5] Letter to Bombay Government, 28 November 1838 (Vol. 275) ; also letter to Madras Government, 1 February 1837 (Vol. 264). Volumes 264 and 275 of the Calcutta Records Miscellaneous contain many letters addressed to the Governments of Bombay and Madras respecting details of administration in the departments of education, customs, post office, finance etc.

reorganisation was effected under the close supervision of the Governor General in Council. It was premature to desire the universal establishment of one administrative system, as the different parts had not reached a similar stage of development. Nevertheless, the tendency of the Government of India was definitely in this direction. The labours of the Law Commissioners were not yet over, and the codes of substantive law had not yet been enacted. In the absence of universal codes of civil and criminal law, administration of justice followed the Presidential Regulations framed at an earlier time. After the Mutiny the codification was in full swing. The enactment of the Indian Penal Code, the framing of the Codes of Civil and Criminal Procedure, the report of the Police Commissioners (1859–60) and the effort to reform the administration of jails and excise, were but the preliminary attempts at centralism and uniformity. However in 1860 the two Presidency Governments had their separate Civil Services, separate laws for police or courts, and conducted the details of their administration without minute interference from the Government of India except in matters financial. Centralisation had begun but was not yet complete.

(v) Public Works

The greatest vigilance was exercised in the Public Works Department. Brick and mortar had a peculiar charm for the local Governors, and ever increasing demands were made on public revenues for buildings, roads, tanks and canals. The purse of the Government of India

was not long enough to meet all the pressing calls of the clamorous but irresponsible Local Governments, and so in the interest of economy and systematic prosecution of public works, greater control became essential. The Governors of Bombay and Madras could, heretofore, sanction works estimated to cost Rs. 10,000 each, beyond which previous sanction of the Governor General in Council was required. This led very often to extravagance. They had sometimes given sanction to the projects in a most "irregular and unsystematic manner" without reference to the general wants of the country.[1] Lord Dalhousie found that "from time to time projects of public works, some of them involving vast expenditure are, in point of fact, sent up to the Governor General by the Governments of Bombay and Madras, so crude, ill-considered and unbusinesslike that there remains no room for doubting the absolute necessity of maintaining an active control over their expenditure in the hands of the supreme authority".[2] To check this state of affairs, the Directors recommended that the Local Governments should frame annually a scheme of works to be undertaken during the coming year and submit it for the "final sanction and approval" of the Government of India. By this they did not intend "to deprive the two Governments of any of the power they have hitherto possessed of authorising expenditure on such works". Their object was to

[1] Letter from Court of Directors to Government of India, No. 32, dated 24th May, 1853.

[2] Minute of Lord Dalhousie dated 30th June, 1854 (Public Proceedings, 11 August 1854).

secure a proper application of money to expenditure on public works. By this means, they thought of relieving the Supreme Government "from that unnecessary distraction of attention and waste of time which arise from a number of separate projects of a kindred nature being brought under your consideration at different periods".[1] Lord Dalhousie put it into practice by organising a separate department of public works in each province, linked to and controlled by the Public Works Department with the Government of India. At the same time, he made a rule that an estimate of the public works to be executed within the year should be submitted to the Supreme Government, containing a statement of (1) ordinary repairs ; (2) extra-ordinary repairs ; (3) new works and (4) expenditure in current year on works already sanctioned. No sanction was required every year for items 1 and 4, but they must be shown in the estimate. The Local Governments had power to sanction emergent works, the statement of circumstances "being immediately submitted for the information and approval of the Government of India." The money limit of the sanctioning authority of the Governments of Bombay and Madras was not disturbed. But all projects estimated to cost more than that sum had also to be submitted separately for the formal sanction of the Governor General in Council.[2] This arrangement continued

[1] Director's Despach No. 32 dated 24th May, 1853 (Public Proceedings, 11 August, 1854).

[2] See Public Proceedings of the Government of India dated 11th August, 1854 ; Lee Warner : Life of the Marquiss of Dalhousie. Vol. II, pp. 188-190.

for a long time. The Local Governments were not satisfied with it. They desired that "the admitted amount of annual expenditure" within a certain limit "should be placed at the unfettered and exclusive disposal of the Local Government." The requirement of previous sanction for each new major work and the sanction for the annual estimate of all works had the appearance of serious checks on their authority.

(VI) Education, etc.

So far as it can be ascertained, the Government of India's policy aimed at little interference with the administration of the Local Governments except in the departments of political and financial importance. In services like education or municipal administration the Government of India, from time to time, laid down general principles for the guidance of the Local Governments and left the details to be worked out by them. The Government of India Resolution of 1839 and the Secretary of State's Despatches of 1854 and 1859 on education determined the broad lines to be followed by the subordinate governments. They were at liberty to develop the system best suited to their circumstances. Of course, the Government of India, occasionally brought to the notice of the Local Governments the experience acquired in any other province, but did not press for its adoption. The grant-in-aid rules were similar in all the provinces and had been sanctioned by the Governor General in Council. Beyond the financial limitations, there was no other check on the Local Governments

in the Department of Education. So also with Municipalities, the Registration Department and other minor services.

Views of the Local Governments and others on the position under the Act of 1833 and suggestions for improvement.

The Governments of Bombay and Madras chafed under the restrictions imposed upon their autonomy. They desired full authority in all matters relating to the internal administration, subject only to the direct control by the Court of Directors or later by the Secretary of State. They held that the necessity of reference to Calcutta caused delay and was futile as it transferred decision to a distant authority.[1] The feeling both in Madras and Bombay was that the Supreme Government was too much dominated by local prejudices arising from its association with Bengal, and that it could not give a fair consideration to the requirements of the two southern Presidencies[2]. Their apprehensions were not quite unfounded for the Supreme Council, till 1853, had no member drawn from Bombay and only one from Madras[3]. They complained of the deprivation of legislative powers and stated that their projects of law did not meet with fair consideration from the Council of India[4]. Also they grumbled at the Supreme

[1] Evidence of J. P. Willoughby, 1852-53. Q 1476.

[2] For instance, the inspired article "Observations on the Madras and Bengal Governments and their relative positions" in Calcutta Review No. XXXII. Evidence of J. C. Marshman, 1853. Q. 4387.

[3] Col. Morison from Madras.

[4] H. T. Prinsep: The Indian Question in 1853. P. 96.

Government's desire to effect general uniformity of administrative practice. They were occasionally asked to conform their system to that of Bengal, and this they resented. Their greatest objection was against the control by the Government of India over their expenditure, and they desired to be free from the limitations on the creation of new offices, grant of salary and pensions. They felt that they were unable to make any improvement in their territories owing to the control by the Supreme Government over public works expenditure. Charge of partiality to northern provinces and of depriving the Presidency of Madras of its share of the revenues collected there, was often made against the Government of India. Witness after witness at the Parliamentary enquiry of 1852 and 1853 dilated upon these points, and pleaded for greater liberty to the two Presidency Governments, declaring in exaggerated language that the Act of 1833 had placed them in complete dependence upon a Government without adequate machinery for its new charge[1].

The remedies which were proposed at this time may be placed in two categories, firstly, those which recommended that the Supreme Government should be made a real, effective central authority and, secondly, those which desired to invest the Local Governments with larger autonomy. The advocates of centralisation were prepared to abolish the full Governments of Madras and Bombay with Governor

[1] See evidence of Lord Elphinstone, J. P. Willoughby, John Sullivan etc.

and Council, and substitute Lieutenant Governorships instead. They opposed the maintenance of separate armies and civil services and would deprive the Governments of Madras and Bombay of the privilege of direct correspondence with the "Home Government". As against these, some wished to return to the practice of the earlier period. They suggested that the Governments of Madras and Bombay, possessed as they were of their armies and civil services, should be allowed full liberty of action in their internal administration subject to control, not by the Government of India, but by the authorities in England.[1] In foreign and political affairs they were willing to leave superintendence to the Governor General and Council. Some would maintain the general control by the Government of India over financial policy as well, but would confide greater liberty to the Local Governments in the management of the details.[2] Specially in public works expenditure they would leave "the distribution of the sum and the selection of works" to the Local Government after a lump sum for their needs had been fixed by the Supreme Government.[3] So also in other departments. The proposal by Sir Charles Trevelyan may be taken as a fair mean between the

[1] Lord Elphinstone. Q. 2212. Also Lord Ellenborough. Q. 2281. John Sullivan. Q. 4663,4670. Also Mr. Bright. Speeches 1858.

[2] Lord Elphinstone's evidence. Q. 2107 and 2190.

[3] Report of the Committee appointed to report on the Public Works organisation in the Presidency of Madras, quoted by Lord Dalhousie in his Minute dated 30 June 1854.

the two extremes. He wrote: "According to the constitution of British India, there is one Supreme General Government without any local charge, and several co-ordinate Presidencies...etc. The true function of the Supreme Government is to regulate those things which are of common interest, such as diplomacy, Post Office, Customs, etc., to supervise the proceedings of all the Local Governments, so that however much they may differ in form, they may be guided by the same general principles; and above all, to maintain substantially one financial administration for the whole of British India". To bring about this result he proposed that the Supreme Government should be "placed in a central position apart from any particular Presidency" and should be composed "of officers selected from every part of India." He sought the immediate remedy in finance; "as governments have a tendency to be shaped by this most powerful element." He recommended the adoption of the Budget system with permission to the Local Governments to spend within the estimate, but "not to exceed any of the principal heads of expenditure section in their respective estimates without the previous sanction of the Supreme Government"; and to be free to apply the "surplus upon one item to supply the deficiencies upon others under the same general head of expenditure".[1] Moderate opinion desired change only to the extent of giving liberty in the details of administration,

[1] Minute by Sir Charles Trevelyan, dated 13 July 1859. (Correspondence on Financial Measures 1860, p. 71.)

including finance, without prejudicing the general supervisory character of the Supreme Government.

It must be admitted that the system which had developed under the Act of 1833 was productive of friction between the local and the central authorities, a circumstance injurious to the interests of public service. The gradual absorption of all financial control by the Government of India depriving the Local Governments of discretion to spend even a pie without its sanction, the ineffective yet vexatious interference with the administration of the Presidencies, resulting from its financial authority, and the effort to control all public works administration were bound to bring it into conflict with the Governments of Madras and Bombay which had all the paraphernalia of semi-independent governments and had the means of appealing to the highest authority over the head of the Supreme Government. It was a compromise between federalism and centralism, and compromises are not always successful. As long as the Governments in India were content with elementary duties of defence and collection of revenues, that system could work, but when after the Mutiny the administration tried "to meet the rapidly growing wants of the country" the control by the Supreme Government became necessarily more thorough with the result that friction increased. It was manifest that a radical change was necessary.

The need of a central authority was as great in 1860 as it had been at any date earlier. At the same time it was obvious that the administration of the country had to be conducted by the Local

Governments. The main problem now was so to harmonise the functions of the two that the machinery of state might work smoothly. The proposal that the two Governorships should be subordinate only to the Secretary of State was retrograde and would probably have made the two governments bureaucratic despotisms. On the other hand, the reduction of the Bombay and Madras Governments to Lieutenant Governorships would have provoked serious opposition in England. Complete centralisation was undesirable. The only alternative was to allocate the functions of the two authorities, local and supreme, leaving general control and supervision to the latter until the elements of popular control might be introduced. But owing to the effort of the Central Executive to direct the whole administration in the exercise of its responsibility to the Parliament, no reform in that direction was possible. Centralisation maintained its pace with the result that in a few years the tension became still greater.

CHAPTER II

THE TRANSITION 1860-1870.

A general idea of the powers of the Supreme Government in India has been given in the preceding chapter. The main legal basis of its authority was the Act of 1833, the provisions of which, so far as they affected the relationship between the several governments in India were not disturbed by the Act of 1858. The power of general control and supervision over the Local Governments, vested by the earlier Acts in the Governor General and Council, remained unaffected. Besides, the laws passed by the Indian legislature also defined the extent of the authority of the Supreme and the Local Governments. The Government of India had issued Resolutions from time to time, determining the limits within which the Local Governments could act, or laying down rules regulating the conduct of government. Thus, by 1860, as a result of administrative evolution and legislative enactments a system was established which was followed by the Government of India in its dealings with the subordinate governments. The Supreme Government was responsible for all political relations with foreign or Indian states. It was vested with a general supervisory control over all affairs of government and was enjoined not to let "pass without comment,

Powers of the Government of India.

and, if necessary, without effective interference any measures having......an injurious tendency either to one Presidency or to the Empire at large". Moreover it was the sole legislative and the final financial authority. And as every expenditure, or every creation of a post required its previous sanction, it had "the opportunity of interference with all the details of administration", central or provincial.

Before 1861 the Supreme Government made all laws, whether of local or general application. But in that year legislative power was restored to the Governments of Bombay and Madras, and provision was made for the establishment of legislative councils in other provinces[1]. The Government of India, nevertheless, had concurrent powers of legislation and its "laws and regulations" could "control and supersede any laws and regulations" made by the Local Governments[2]. Moreover, the Governor General had the right of veto over all local legislation, for no law could be valid unless assented to by him[3]. Bengal was also given a Legislative Council in 1862. But legislation, even of a local character, relating to other provinces was conducted in the Supreme Council. Thus all laws, other than those of a purely local character applicable to Bengal, Bombay or Madras, continued to be enacted by the Supreme Government. It had at the same time the power to

[1] Indian Councils Act 1861. Preamble, also Section 44.

[2] Ibid. Section 22.

[3] Ibid. Section 40.

issue ordinances having the force of law[1]. Further, it was invested with a rule-making power under many Acts of the Indian legislatures[2]. These rules were as good as law.

Great legislative activity was shown after 1861. The labours of the Law Commissioners were fruitful in producing the drafts of many codes of substantive law which are in force up to the present day. After the tumult of the Mutiny, the country settled in peace and with peace new needs came to light. Every aspect of life needed attention ; every department of state required improvement. The result was a harvest of laws passed by the Governor General's Council, affecting almost all matters of administration. And because local legislation could not encroach on the measures passed by the Supreme Council, without the previous sanction of the Governor General, the Government of India had for a long time afterwards, the means of scrutinising and controlling the legislative action of the Local Governments[3].

It has been mentioned before that " the law invested the Supreme Government with the most complete authority in regard to every kind of expenditure ", subject to the control by the Secretary of State, and that all the revenues collected in British India formed one purse, their allocation for definite services being ordered by the Government of

[1] Indian Councils Act, 1861, Section 23.

[2] For example :—Act XVIII of 1861, Act IX and XXI of 1869.

[3] Indian Councils Act 1861. Section 43.

India[1]. To secure the systematic and regulated disbursement of revenues, the Budget system was introduced in 1860, authorising expenditure under each head. Every departure from the estimates required the specific sanction of the Governor General in Council. Moreover, it was ordered that every new expenditure before being included in the Budget must be submitted to the Financial Department of the Government of India for sanction.[2] The machinery to secure adherence of the Local Governments to its estimates was the Financial Department at the centre with its Accounts Officers in each province whose duty it was to check every item of provincial expenditure and to see that no financial rules were violated by the spending authorities. The Civil Accounts Department was a separate branch of the Government of India. Its officers were required to report all cases in which the Local Government might act in opposition to the orders of the Government of India[3].

Moreover, the Government of India was vested with powers of general control and superintendence over the whole range of governmental activity[4]. In specific cases its sanction was required under some Acts of the Indian legislature, relating to judicial, police, registration, and forest departments[5]. The

[1] Chesney p. 351. [2] Trevelyan's evidence before the Select Committee 1873. Q. 796-7.

[3] Finance Resolution No. 1549, 12th August 1868.

[4] Act of 1833 Section 65.

[5] Acts XXI of 1836, VII of 1843, XXIX of 1845, I of 1849, XXIV of 1855, XL of 1860, V of 1861, III and XXVI of 1864, VII of 1865, XX of 1866.

distribution and discipline of the Covenanted Civil Service was also its sole charge, for these officers were recruited and appointed by the Secretary of State and all references to the India Office relating to them were sent through the Government of India. Appointment of the higher officers of the Public Works Department in the northern provinces required the sanction or confirmation of the Government of India. Similarly, the members of the Board of Revenue in Bengal were appointed by it. To these duties was added the direct administration of some departments of imperial rather than provincial interest, such as the Post Office, Telegraph, Trignometrical, Topographical and Geological Surveys, as well as the Political Department and the Military Department (excluding the armies of Bombay and Madras). Absolute necessity for uniformity in their operations, and political reasons rendered it expedient that these should remain immediately under one authority.[1] The centralisation of such services was complete during this period. Besides, the Supreme Government had under its direct authority the Chief Commissionerships newly established in Oudh, the Central Provinces and Burma. The Governor General in Council was in the eyes of the law the "Local Government" for those areas and as long as these powers were not delegated by him to the Chief Commissioners, the work of the Government of India was heavy. The minor Administrations made references to it, often,

[1] Note by E. C. Bayley, Secretary, Home Department. Public Proceedings, 7 December 1867, No. 60.

on petty matters of detail and were closely controlled by the Supreme Government. As such the Governor General in Council had a large share of direct administration besides his supervisory and controlling function over the major provincial governments whose proceedings were sent to him regularly in addition to separate information on all important matters. By this means every activity of these governments came under his review. The exercise of these powers by him led virtually to the concentration of all authority in the Supreme Government, and it may be said that the entire machinery of government was kept in motion by that body.

Powers of the Local Government.

Next we may consider the extent of the authority of the Local Governments, which may be classified in three grades according to their position and character of government, namely, the Presidency Governments, the Lieutenant Governorships and the Local Administrations. The two Presidencies of Bombay and Madras were each governed by a Governor and three Councillors, and had a seperate army and a separate civil service. By the Act of 1861 they were given Legislative Councils, whose members were appointed by the Governor, and rules of business sanctioned by him. A High Court was also established in each, the executive control being vested in the Governor in Council. All appointments to offices in the two Presidencies were made by the respective Governors. They alone could make promotions and transfers

in their provinces. The conduct of whole administration—judicial, criminal, and police—was in their hands; and the land-revenue settlements were made, sanctioned and enforced by them. So also were the excise and minor sources of revenue. In short " their domestic administration was subjected to the minimum degree of control."[1]

Compared with them, the Lieutenant Governorships of Bengal, the North Western Provinces and the Punjab held a lower position. The Lieutenant Governors were immediately responsible to the Governor General by whom they were, subject to the approval of the Crown, appointed. They had no Executive Council for their help and no separate military or civil service under their control. Nevertheless their "range of action was to a very great extent untrammelled". They made all appointments except those of the members of the Board of Revenue, for which the previous sanction of the Governor General was required[2], and those of the Chief Engineer and the Superintending Engineers in the Public Works Department which were made by the Government of India.[3] Once the members of the superior services were assigned to different Local Governments their promotion and transfer lay with the Lieutenant Governors.

The Indian Councils Act of 1861 provided also for the establishment of Legislative Councils in

[1] Note by W. Muir Foreign Secretary, 28 September 1867 Public Proceedings, 7 December 1867, No. 64.

[2] Note by W. Muir para 9. [3] Code of Regulations in the Public Works Department, Sectionn II, Art. 8,

Bengal, the North Western Provinces and the Punjab, and Sir Charles Wood in his despatch of 9th August 1861 desired that there should be no delay in establishing them. As a result, Bengal got a Legislative Council in 1862 but the other two provinces were not so fortunate. The Bengal Council had the same privileges as that of Bombay or Madras except that the nomination of its members required the confirmation of the Governor General. A High Court was also established in Bengal but, unlike Madras or Bombay, the executive control over it was vested in the Governor General in Council, the Local Government having no concern with it. But the same was not the case with the High Court of Allahabad established in 1866.

The Lieutenant Governors had no direct access to the Secretary of State, the correspondence for those provinces being conducted by the Government of India. They were members of the Indian services and also because of proximity to the seat of the Supreme Government and from their personal relation to the Governor General were more amenable to control by the latter. But "in point of internal administration, their freedom of action and degree of check" was not greatly different from those of the Presidency Governments, except in the Punjab in which, due to many circumstances, the interference was "perhaps greater". It may be said, however, that in the case of all these governments, owing "to the more intimate acquaintance of the Supreme Government with the provinces concerned, the opportunities of control and direction were more

constant, and the references from the Local Governments themselves more frequent"[1]

Third in rank came the Local Administrations governed by a Chief Commissioner as in the Central Provinces, Oudh and British Burma. These provinces "had been for a comparatively short period under British rule" and their heads were officers of less experience than in the older provinces. Hence as William Muir put it, their administration "requires to be adapted to them with greater pliancy, care and caution; and undecided questions and principles are more frequently arising for solution. On these grounds, the subordination to the Government of India is more complete than with the Lieutenant Governorships and references for guidance are more frequent. But the general principles are the same, the only material difference being that the Government of India retains the power of sanctioning the Land Revenue Settlements"[2]. Superior appointments too required the sanction or confirmation of the Governor General, specially in the Public Works Department[3]. The Supreme Government exercised a real control over these Administrations, though owing to the distance of some of them a greater discretion was permitted, as in Burma[4].

It is necessary to keep this gradation of Local Governments in mind in order to assess their power

[1] Note by Muir. Public Proceedings, 7 December 1867.
[2] Note by Muir.
[3] P.W.D. Code of Regulations, Chapter I, Section ii.
[4] Note by Muir.

and authority. To this were due the superior tone and the claims of differential treatment held by the Governments of Madras and Bombay. It was also responsible for the wrong impression prevalent at the time "that India was governed through three Presidencies of which Bengal was under the Governor General as being the Chief Presidency," a theory accountable for many queer schemes of federation as well as a great deal of conflict between the Supreme and Presidency Governments. But the differentiation was greater in practice than in law, specially between the two upper grades called Local Governments. The Indian laws passed either by the central or local legislatures envisaged the existence of Local Governments to which they assigned certain legal functions. In many cases this legal authority was absolute while in others it was subject to control by the Governor General in Council, generally by means of requiring his previous sanction. These laws merely legalised executive powers over the administration which was carried on by the Local Governments, thus giving them legislative sanction for a great variety of executive activity. A glance over the laws passed by the Governor General's Council between 1860 and 1870 will make the position clear. As an instance, executive authority was vested in the Local Governments in almost all the important aspects of administration such as by the Arms Act, Employers and Workmen Act, Police Act, Foreigner and European Vagrancy Acts, Female Infanticide Act, Small Cause Court Act, Registration Act, Press

Act, and Municipalities Act etc. etc.[1] In a few cases, however, the rule-making power was retained by the Supreme Government as under the Land Acquisition, Arms, European Vagrancy, Female Infanticide, Stamp, Customs and Salt Duty Acts etc. The rules were made by each Local Government according to its requirements but, to secure uniformity as far as possible, the previous sanction of the Governor General in Council was necessary for their validity. During this period, evidently the practice had developed of leaving control to the Local Governments over such subjects as did not affect general finances or involved expenditure from the Imperial revenues, or were not of more than local importance. Neverthess, the grant of salaries, fixing of duties, imposition of taxes and general control over important administrative departments such as police, were retained under its jurisdiction by the Supreme Government.[2] The law recognised only Local Governments and unless a Chief Commissioner was invested with the powers of a Local Government by the Governor General he could not exercise the authority mentioned above. Before 1870 in many cases such delegation had been made[3].

[1] Acts XXXI of 1860, IX of 1860, V of 1861, III of 1864, XXI of 1869, VIII of 1870, XII of 1861, XI of 1865, XVI of 1864, XX of 1866, XXV of 1867, XVIII of 1864 XV of 1867, and VI of 1868 etc.

[2] For example under Acts XXXII of 1860, IX of 1868 and XXVI of 1870 etc., assigning of salaries required approval of the Government of India. For imposition of duties see Act XXXVI of 1860 and VI of 1868 etc. also Police Act V of 1861.

[3] Act XXXII of 1867 (Chief Commissioner's power

The Government of India exercised its power of supervision in many ways which may be conveniently placed under three main heads; "cases in which the sanction of the Government of India or Governor General is required by some law; cases in which the sanction of the Government of India is required to increased expenditure, and cases involving general principle or precedent or which are likely to rise into Imperial importance, or to create a grave public scandal, or in which an illegality has been committed, or in which appeals have been preferred by individuals from the orders of the Local Governments (not of Madras and Bombay);" or in other words legislative, financial and administrative[2].

Extent of the Control by the Government of India.

The previous sanction or subsequent confirmation by the Governor General in Council was required for the proceedings of the Local Government under many Acts, the most important being those which related to their legislative powers. The three provincial Legislative Councils were empowered to enact laws of local application, but their powers were restricted by Section 43 of the Act, which made it unlawful for them, except with the previous sanction

Legislative.

Act) empowered the Governor General in Council by a notification in the Gazette of India to delegate his powers to the Chief Commissioners of Oudh, the Central Provinces and Burma.

[2] Note by Bayley. Public Proceedings. 7 December, 1867.

of the Governor General, to make laws affecting the public debt of India, or the customs duties or any other tax or duty imposed by the Government of India for general purposes, or regulating coinage, paper currency, postal and telegraph departments, patents, or copyrights, or altering in any way the Penal Code of India, or affecting religious usages of the people, discipline and maintenance of the military or naval forces and relations with foreign princes or states[1]. Bills relating to these measures were referred to the Governor General for previous sanction. To these, the Secretary of State in 1862 added one more, viz that "all Bills containing penal clauses should be submitted for ...previous sanction" of the Governor General[2]. The reason assigned for this was the maintenance of uniformity in the penal laws of the country.

Also it was considered desirable that all measures of local administration which would affect the finances of the country should be submitted in draft for the preliminary sanction of the Governor General in Council before being introduced into the Legislative Council. Lord Canning hoped "that the cases in which it (sanction) would be withheld would be very rare indeed, if the Local Government before framing its Bill was careful to ascertain to what extent its principles or provisions, so far as these affected the finances, or other general interests of India, would be admitted by the Governor General

[1] Section 43, Act of 1861.

[2] Despatch from Secretary of State, No. 35 (Legislative) 1 December 1862.

in Council and if it understood "that the Governor General in Council takes cognizance of the draft Bill only in so far as it touched the general interests of the empire, and not in its bearing upon local administration" [1]. Sir Charles Wood in his despatch on the Indian Councils' Act emphasised this point and desired that there should be little interference by the one with the field of the other.[2] For some years only those Bills were submitted for previous sanction which came under section 43 or the orders of the Secretary of State, and no attempt was made to call for all Bills indiscriminately. Nevertheless, the interference of the Governor General at the preliminary stage was not necessarily confined to the points referred for his sanction. We are informed by Mr. Bayley that "other portions which would affect the ultimate sanction to be given by the Governor General are occasionally noticed and sometimes points suggested which seem to require consideration in connection with the subject matter of the Bill". It may also be mentioned that this scrutiny was made by the executive departments to which the subject matter pertained, and before the Governor General gave his sanction they were noted upon in the Home Department.[3]

The idea behind the provision of preliminary scrutiny of draft Bills was to safeguard against

[1] Despatch of Lord Canning to Secretary of State dated 9 December 1859.

[2] Secretary of State's despatch No. 14, dated 9 August 1861.

[3] Bayley's Note (Public, Proceeding 7 December 1867, No. 60.)

encroachment by the local legislatures on the domains of the Supreme Government, and to put them in a proper form so that a frequent use of the power of veto might be obviated. The Secretary of State's order of 1862 was prompted by the latter motive, for otherwise the law required the submission of such Bills only for previous sanction as might in any wise alter the Indian Penal Code.[1] Many projects of local legislation came under such review of the Government of India. Later, in 1869 an effort was made to regularise the review of all Bills of local Councils, and a course was suggested that they should at one stage or another be sent to the Legislative Department of the Government of India which would take them into consideration and make suggestions with regard to them. The reason given for this altered procedure was that in many cases there was divergence in the wording and structure of the Acts of one Council from those of the others. Also there was "a decided want of harmony in the principles underlying the enactments of the four Indian legislatures".[2] But the Local Governments opposed it vehemently as "placing a further limit to the already restricted powers of legislation

[1] Secretary of State's Despatch No. 35 (Legislative) 1 Decmeber 1862, The order was issued on the letter of the Government of India informing that the Governor General had withheld his assent to three Bills passed by the Legislative Council of Bombay as their provisions came into conflict with the Indian Penal Code.

[2] Letter to Bengal No. 172, 15 June 1869 quoted in 'A Selection of Papers relating to the Constitution and Functions of Indian Legislative Councils'. 1886 pp. 207-8.

possessed by the local legislatures", and as "a real and substantial infringement on their present independence",[1] They considered it as "incompatible with the maintenance of legislative independence", likely to "destroy that local opinion and local independence for the sake of which the Councils were created".[2] Owing to this determined opposition, the proposal was dropped.[3]

There is no doubt that this simple desire of the Legislative Department to secure perfection in the structure of the Bills would ultimately have led to greater interference with the legislative powers of the local Councils. It would have introduced Imperial authority at a very early stage which must have resulted in the local Councils registering merely those opinions which were supplied to them by the Imperial Government[4]. Thus before 1870, the preliminary control on local legislation was confined only to cases coming under the law of 1861 or the

[1] Letters from Bengal No. 647T dated 12 October 1869, Madras No. 203, 13 July 1869 and Bombay No. 55,26 April 1871

[2] Madras Letter of 13 July 1869 and Madras despatch to the Secretary of State. No. 5 dated 1 November. 1869.

[3] Despatch to the Secretary of State No. 11, 2 June 1871.

[4] Madras despatch to the Secretary of State No. 5 1, November 1869. Lord Mayo, however, considered it to be "an honest attempt to make imperial and local legislation more harmonious, and to make the exercise of the power of veto less likely than before." He wrote further that "a good proposal has been defeated by the local jealousy and distrust of the Supreme Government which is the course of our administration." Minute dated 23 May 1871.

orders of the Secretary of State. There does not seem, also, to have been any interference with the course of the Bill in the local Councils. The Government of India was not prepared to come into conflict with public opinion as expressed in the Councils and so it permitted the provincial governments to enjoy the limited legislative independence which was given to them in 1861.

The next stage of check on local legislation came when the Bills as passed by the local Councils were sent up for the final assent of the Governor General under Section 40 of the Act of 1861. The Bills were examined by the Home and the Legislative Departments of the Government of India and then submitted to the Governor General for sanction. There was reluctance to veto an Act of the local Council, unless the irregularity was very great. The principles on which interference was exercised at this stage were explained on two occassions. In reply to the Bengal Chamber of Commerce the Supreme Government wrote, "Neither is it the duty of the Governor General to veto every Bill with which, or with part of which, he may not coincide. His province rather is to reserve his veto for measures which involve some distinct illegality or compromise some fixed principle or infringe some settled rule of policy."[1] These views were approved by the Secretary of State.[2] Again in

[1] Government of India letter to Bengal Chamber of Commerce, No. 2187, 23 June 1866.

[2] Secretary of State's Despatch (Legislative) No. 54, 6 September 1866.

1869, Mr. Whitley Stokes, Secretary to the Legislative Council of the Governor General reiterated these principles in the words that "that power (of veto) should, in the opinion of His Excellency, rarely be exercised and never except on grounds of public policy or for other irresistible reasons"[1] The fear of damaging the authority of the local Councils and of causing misunderstanding and ill-feeling between their members and those of the Supreme Government was accountable for this hesitation.[2] In some instances, however, the assent was withheld as in the case of Madras Presidency Town Jails Bill, because it professed to repeal certain sections of Act XVIII of 1862 passed by the Supreme Council. Some Bills were assented to under reservation as for instance, the Bombay Municipal Act 1865, the Madras Bank Act 1866, the Madras Municipal Bill 1867, Calcutta Steam Boilers and Prime Movers Bill and the Bill to amend the law relating to the collection of tolls on canals in Bengal, 1864. In each case some condition was imposed, either that the offensive clauses would remain inoperative or that action would only be taken subject to the control by the Government of India or that early opportunity would be taken to amend or repeal them.[3]

The Acts passed by the local Legislative Councils were, with some exceptions, of a purely

[1] Letter to Government of Bengal No. 172, 15 June 1869. [2] Ibid. [3] Note by Mr. Bayley: Public Proceedings, 7 December 1867.

local character relating to such subjects as port regulation, river signals, realisation of rent, municipal institutions, transport of labour, town police, education and local courts of justice[1]. The output during this period was not considerable, about "six to nine Acts apiece annually"[2]. These provided for the administrative needs of the province. Some legislation of a general character was also enacted by them, its purpose being to introduce some improvement within the province itself in the absence of a general improvement of the law by the Supreme Government. It was as if "each Presidency experimented upon itself for the benefit of all India"[3]. Administrative reforms, not universally approved in the beginning, might thus be tried in a particular province and if successful could be adopted by the others ultimately. The Government of India, however, was always vigilant and insisted on its previous sanction being taken on measures of this character. It took care to see that such projects were not barred for the local Councils by the Indian Councils' Act, or that they did not conflict with the Letters Patent and the jurisdiction of the High Courts, or did not affect imperial taxation or did not lead to the creation of new offices without its previous

[1] Letters from Bengal to Government of India, No. 647 T. 12 October 1869.

[2] Minute by Cunningham. 16 May 1871.

[3] Letter from Madras to Government of India, No. 203, 13 July 1869.

previous sanction.[1] In certain cases the general policy of the Bill was disapproved and its scope limited accordingly.[2] The control thus exercised before 1870 was neither very minute nor in any way unauthorised by law. The Local Governments were, at the same time, very jealous of any interference with their legislative independence and were not prepared to allow any greater power to the Supreme Government than given by Parliament. The independence of local Councils, they considered, was necessary for "rapidity of legislation, adaptation of laws to the special wants of the Presidency, and heightened interest in local matters.[3]" Some of these results had been secured.

[1] For example, the draft Bill relating to br ach of contracts of service in Bombay Presidency (Bombay Letter No. 2809, 20 Sep. 1864) and Mr. Trevor's motion to amend Act XXIII of 1863 in Bengal Council (1864) were not approved as being barred by the Act of 1861. So also the draft Bill for relief of Insolvent Debtors submitted by the Bombay Government was negatived as affecting Letters Patent; or Bombay proposals for Wheel Tax Bill (1863), for providing compensation to the official Assignee (No. 3193, 26 Sep. 1865), for a Bill for the regulation of Jails and the enforcement of discipline (No. 138, 15 June 1865) were declined as affecting Imperial taxation, or leading to the creation of new offices. (Bayley's Note. Public Proceedings 7 December 1867).

[2] For example the scope of the Bombay Bill for prevention of gambling throughout the Presidency was limited to large towns only (1864); also the proposal for the establishment of Reformatory Schools for juvenile offenders (Bombay No. 2720, 17 August 1865) was negatived; and Bengal proposal for a law to prevent polygamy among the Hindus of Bengal (No. 1957, 5 April 1866) was declined as people were not prepared for it.

[3] Madras Letter to the Government of India No. 203, 13 July 1860.

Financial supremacy of the Government of India recognised by the Act of 1833 was still an established fact. All the revenue collected in the various provinces went to a common fund out of which definite allocations were made for the expenses of the Local Governments. The budget estimate as approved by the Financial Department was their sanction for appropriation. Every new expenditure and all proposals involving increased expenditure required the previous assent of the Governor General in Council.[1] This rule brought the action of the Local Governments by far the most frequently under the scrutiny of the Government of India. All such references were submitted eventually to the Financial Department with whom rested the decision on purely financial grounds. But the relative claims of various proposals for additional expenditure had to be decided, so much for administrative reasons, that they were first considered in the Department of the Government of India to which the subject-matter of the proposal belonged. There they were examined " on other than purely financial grounds ", and if approved were sent to the Financial Department for further decision on financial considerations[2].

Financial.

But, as in the case of legislation, the tendency at the time was to relax control by the Supreme Government over the financial details of the local

[1] Evidence of Lord Lawrence before the Select Committee 1873. Q. 4648-9.

[2] Mr. Bayley's Note. Public Proceedings, 7 December 1867.

administration. There was of course no change in the legal position of the two, and, as has been mentioned before, the Government of India had the most complete authority in regard to every kind of expenditure. In general outlines too there was no material alteration and the allotments for all provincial services were made by the Government of India. The budget system as introduced by Mr. Wilson strictly regulated the expenditure in every department, and the creation of every new office howsoever petty required the previous sanction of the Governor General in Council. But within the limits of the budget estimates the Local Governments were allowed some latitude. The Local Governments were empowered in 1862 to redistribute expenses and to recast establishments without increasing the expenditure budgetted under that head[1]. They "had the power, subject to report to the Government of India, to increase the pay of particular establishments in the same department, provided, further, the alteration be within the Budget grant for the year."[2] When the Police Department was being reorganised in consequence of the

[1] Resolution Finance Department, 30 September 1862.

[2] Office Memo, Finance Department No. 6251, 12 December 1863. Also Mr. Lushington's Note dated 6 December 1867: Local Governments "are empowered to revise permanent establishments within the scale of charge or within the existing Budget provision so long as they do not alter the salary of the Gazetted appointments...... Temporary establishments...are provided for in the Budget and within the Budget limits are passed by the Local Governments......" Public Proceedings, 7 December 1867, No. 66.

recommendations of the Police Commission of 1860, a money limit was fixed for each province within which the Local Governments were free to adjust the details, reporting subsequently the arrangements made to the Government of India.[1] But this latitude did not imply any less control over Local Government expenditure. The Government of India made it clear in a letter to the Punjab Government that "it must not be supposed that, by fixing a sum for expenditure on the Punjab police, the Government of India intended to deprive itself of all control over expenditure. When the present reductions have been carried out there will be no objection again to fix a sum as the limit of expenditure within which the Government of India will not interfere in matters of petty detail. But in respect to any alteration in the number or pay of officers holding gazetted appointments it will not be competent to the Local Government to make any change without previous sanction, nor could such power be delegated by the Government of India."[2] In actual practice the Government of India was following the policy sketched above and even when an agreement had been made with the Local Governments that they could reorganise the Police Department within the money limit fixed, the Financial Department objected to any new change

[1] Resolution No. 2019, 15 April 1864. But the limit was fixed for a year only.

[2] Letter to the Government of the Punjab, No. 762, 20 October 1869.

and suggested detailed retrenchments. The Local Governments resented it, but they were informed that such expenditure (Police) "was not meant to be under any less control" than the expenditure of other Departments[1].

The Government of India maintained a rigorous control on all proposals for increased expenditure and was averse to making extra grants for any purpose other than famine works after the grant of the year (Budget grants) had been once fixed[2]. The Budget estimates, as mentioned before, were minutely examined and all new expenses had to secure previous sanction of the Government of India separately. During this period also, the number of references relating to creation of posts and grants of salaries was immense and sometimes included salaries as low as rupees four a month[3]. The introduction of the Budget system had certainly obviated the need for a close scrutiny of all the details, but tradition and departmental red-tapism prevented any serious change being made. Before the introduction of the Budget and regular audit it was necessary to insist on previous sanction for each item, but now this prerogative of the Financial Department could

[1] Resolution H. D., 28 June 1864 (Police Proceedings, July 1864, No. 15.)

[2] Letter to Madras No. 754 A., P. W D. 9 October 1868.

[3] Mr. Lushington, Financial Secretary, submitted a list of cases in which the Finance Department had objected to the proposals of the Local Governments. The number of such cases in three years (1864-67) was 300 and more, (Public Proceedings, 7 December 1867. No, 67).

easily be relaxed.[1] The Local Governments resented this interference, and thus the relations between the two were becoming unharmonious. The Government of India was at the same time unable to assess every recommendation of the Local Governments at its right value, and, as such, had to yield to the clamour of the most importunate. The Local Governments, in the words of Colonel Dickens, rendered "at best to the Supreme Government a cold and languid support in financial vigilance and reform; they too often exhibit a passive resistance, and even countenance evasions of regulations intended to be conducive to economy".

The demands of the Local Governments were increasing from day to day, and this the Government of India was unable to check. The distribution of public income was most unequal and, as General Strachey wrote, had degenerated "into something like a scramble, in which the most violent has the advantage."[2] The lack of interest in economy in the Local Governments generated waste. Specially in public works, uncoordinated schemes, perhaps the outcome of the vagaries of the local Governor, were taken up without much regard to the capacity of the general purse, and prosecuted specially in Bombay sometimes even without the sanction of the Government of India.[3] The Government of Bombay

[1] Note by Col. Dickens dated 21 November 1867. Public Proceedings, 7 December 1867, No. 62.

[2] Strachey, Finances and Public Works of India, p. 137.

[3] Note by Col. Dickens, Public Proceedings, 7 Dec. 1867.

was traditionally rebellious, perhaps relying on the support of the Secretary of State and the public men in England[1]. Expenditure was consequently increasing, and deficits became a regular feature of Indian finance. This result was rightly attributed to the centralisation of finance and its corollary the irresponsibility of the Local Governments. Check in a central department was impossible; the exhortations for economy and for limiting the expenditure to the estimates were unavailing. Fresh sources of taxation were small even if the Government of India had not been always on grounds of policy averse from increasing the burdens of the people. To secure equilibrium between revenues and expenditure a radical change in the financial system was necessary. The experiment of relaxing control occasionally in specific departments required further trial and extension.

Administrative.

The Government of India had also been empowered by the Act of 1833 to exercise general supervision over the acts of the Local Governments. Interference, therefore, with the proceedings of the subordinate Governments was natural when their acts were such as to be in conflict with the general policy of the Government of India or were likely

No. 63); Public Works Despatch to Secretary of State No. 56, 27 July 1864, and the Secretary of State's Despatch to Bombay No. 89, 29 September 1864. Also evidence of Sir Charles Trevelyan before the Select Committee on Indian Finance 1873. Q. 498 and 503.

[1] Trevelyan's evidence Q. 504.

to rise into Imperial importance. It was also necessary to maintain uniform conditions of service in all the parts of British India, for otherwise the civil servants in different provinces, though recruited alike, would have suffered differential treatment. The public opinion too was now more vigilant and critical[1], and the Government of India was careful to see that no measure was taken by the Local Governments which might in any way provoke discontent. At the same time every department of administration required overhauling so as to suit the changed circumstances and the altered standards of efficiency. To secure uniform progress, the Supreme Government was constrained not only to lay down general outlines but also to supervise the details of reorganisation. Further every proposal for increased expenditure required approval of the administrative departments of the Government of India on considerations other than financial. This involved scrutiny lest they should violate "general rules and principles laid down by the Secretary of State and the Government of India on grounds of general policy" or should be illegal or "objectionable in all the general considerations which warrant the interposition of the Government of India". Such proposals were also considered "not merely on their merits but with

[1] Specially in England and the European populations in India with their press. Before 1870 a few Indian associations had also been established. (See Sir Bartle Frere's Minute, 16 March 1860)

respect to the question also how far these merits... justify additional expenditure; and sometimes with reference to the additional expenditure in other provinces and Departments which may be involved by the precedent which the sanction of the proposals would create."[1] For these reasons the number of references to the Governor General in Council was great, and the occasions of interference by him with the administration of the Local Governments were many during the first decade after the Mutiny.

An illustration is afforded by the reorganisation of the department of Police. Before the Mutiny every Local Government had developed its police system in its own way, there being neither cohesion in principle nor similarity in method. Corruption and inefficiency were marked. To remedy this state of affairs, the Government of India appointed a Commission to make a comprehensive enquiry into the existing constitution of the police establishments throughout India with a view to ascertaining the most effective method of improvement and also seeing if the existing expenditure could be reduced[2]. In a memorandum attached to the Resolution appointing the Commission, the Government of India laid down certain principles and characteristics of a good police for the country. The Commission reaffirmed them and suggested general lines for the

[1] Mr. Bayley's Note. (Public Proceedings, 7 December 1867.)

[2] Resolution Home Department No. 52, 17 August 1860.

organisation of police in all provinces.[1] The Government of India commended their proposals to the Local Governments for adoption. It recommended uniformity in the matter of pay, dress and discipline. "The control of the Government of India" it was stated, "should be confined to general principles and to such general supervision as may enable that Government to preserve some uniformity of practice and due proportion in the amount of expenditure allowed".[2] Though the Commission did not consider it "desirable to have under the Supreme Government any executive department in connection with the police, or any officer in supersession of the functions and responsibilities of the Local Governments",[3] yet, to secure the desired "organisation of police of tolerable uniformity upon a concertive system" and a proportioned retrenchment in expenses "by central scrutiny", the Government of India appointed temporarily an officer called Inspector General of Police for India.[4] His duties comprised inspection of the police in the different provinces and submission of report on its organisation to the Local Government concerned. The Government of India also consulted him before adopting any recommendation affecting

[1] Police Commission Report (Judicial Proceedings, Nos. 34-38, October 1860): Curry: The Indian Police pp. 33 for summary.

[2] Memorandum attached to the Resolution, 17 August 1860.

[3] Police Commission Report, para 17.

[4] Resolution, Home Department, 9 April 1862.

the recognised principles of the system, the strength of the force, or expenditure on it. He was not to exercise any direct authority or control and it was optional for the Local Government to "act on his suggestions or not to do so; and in the latter case, where points of importance or involving financial considerations" were in question, the grounds of dissent were to be communicated to the Government of India.[1]

Evidently, by these measures, the Government of India did not intend to cramp the authority of the Local Governments. It only wished "that the Supreme Government should decide upon all questions of general principles, that they should have the power of preserving some uniformity of practice and of securing the reduction of general expenditure to the lowest point consistent with efficiency, but that on the other hand the authority and the responsibility of the Local Governments should not be trenched upon nor their legitimate functions in any manner superseded."[2] It was difficult to harmonise the two objects, particularly in the then temper of the two southern governments. To avoid unnecessary interference, the Government of India, as mentioned before, fixed a money limit for some provinces and allowed the Local Governments concerned to arrange the details suitable to their local circumstances without deviating from the accepted principles. The Police Act of 1861 providing

[1] Circular Letter to Local Governments, No. 1882, 12 April 1862.

[2] Resolution, 9 April 1862.

the legal framework for police administration was itself of permissive character, and liberty of making rules was conceded to them.[1] The Government of India did not insist on any rigid uniformity and even when the Secretary of State desired that definite rules should be framed regulating the relations between the District Magistrate and the Superintendent of Police, the matter was referred back for consideration, on the advice of the Inspector General of Police of India, as it "would only hamper the Local Governments most injuriously, and tend probably to cause general dissatisfaction and misunderstanding". Again the principle was affirmed that it was not proper to restrain "the action of the Local Governments by descending below broad and general principles, or the framing beforehand of elaborate and complicated rules to meet hypothetical cases that may never arise."[2]

But while leaving ample discretion to the Local Governments in the details of administration, the Supreme Government was not prepared to permit departure from the general policy. Questions regarding the provision of arms to the police force and their supply[3], leave rules, the method of entering

[1] Letter from Inspector General of Police to the Secretary, Government of India, No. 88, dated 14 October 1862 (Police Proceedings, No. 4, 14 May 1863.)

[2] Ibid ; Secretary of State's despatch No. 60, 31 July 1862.

[3] Letter to North Western Provinces Government, No. 3362, 4 July 1862.

into contract for the supply of police uniforms[1], the policy of quartering extra police at the cost of the inhabitants of a locality[2] under section 15 of Act V of 1861, the suppression of dacoitee by police[3], the rent for the office of the District Superintendents[4], the proportion of military to Uncovenanted Officers in the Police Department[5], and general reduction of expenses, all attracted the notice of the Government of India and detailed instructions were issued to the Local Governments. Particularly the last two and the supply of arms involved frequent references. In 1867 the Government of India issued a general Resolution[6] suggesting the division of the police force into two branches, armed and civil, the propriety of the reduction of the military element in the force, and larger increase of the Indian staff. With these remarks the Government of India left the matter for further consideration by the several Local Governments, whose views and wishes, it stated, would be allowed to have a prevailing influence in the final settlement of question. The Government of Madras vehemently opposed the proposal as being prejudicial to the efficiency of the police in that province, and desired that the existing system of officering the police from the

[1] Police Proceedings, May 9, 1863. No. 3.
[2] Resolution H. D. No. 18, 21 May 1863.
[3] Letter to Central Provinces No. 6720, 23 October 1863.
[4] Letter to Bengal No. 7591, 30 November, 1863.
[5] Resolution Nos. 3004-14, 3 August 1867. [6] Ibid.

army would be continued, further inducements in the form of increased salaries being recommended.[1] The Government of Bombay, too, could not accept the scheme[2]. The Government of India saw no use in pressing the matter and decided to secure the desired end by refusing to increase the inducements to military officers to enter or remain in the police[3]. Other means failing resort was had to the financial control, the trump card always in the hand of the Supreme Government

Similarly in the other services, the Government of India was not merely to prescribe general rules and issue broad principles but assiduously watched their application by the Local Governments. Of course local differences were taken into account in making rules, and the Local Governments were consulted before laying down a policy. But when that stage was over, conformity of the Local Governments to the rules was expected, and remissness was followed naturally by rebuke. It may be observed also that this scrutiny was not alike in respect of all services. Such departments as affected the structure of administration, or owing to their contact with the people were likely to be of political importance, as for example, the police, jails, criminal justice, revenue administration etc.

[1] Letter from Madras to the Government of India No. 269, 18 February 1868.

[2] Letter from Bombay to the Government of India No. 514, 21 February 1868.

[3] Remarks H. D. No. 225, 30 April 1868, and Proceedings Financial Department No. 1813, 14 November 1868.

were subjected to greater supervision. More latitude was, however, permissible in education, sanitation and such other services. Regular review of the monthly proceedings of the Local Governments, comments and notices in the press, or memorials and appeals by persons, afforded the means of interference. For instance, an enquiry was made from the Government of Bengal as to the action taken by the Chief Commissioner of Police in consequence of disclosures, respecting the conduct of police, which took place in a trial relating to two officers of Calcutta Police and was reported in the "Phoenix."[1] The attention of the Government of India was also directed to the assessment of Chaukidari tax near Serampore in Bengal by an article in the "Friend of India" and report was asked for from the Local Government.[2] A little later the Government of the North Western Provinces was addressed on the subject of the disturbances in Muttra in consequence of the offence given to the religious feelings of the Hindus there by certain measures for killing dogs.[3] Further, the Government of India asked for a full report on a trial held by the Magistrate of Benares, which "reflected seriously on the capacity of that officer."[4] The Supreme Government gave detailed instructions for keeping rigorous restraint on police

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[1] Letter to Bengal No. 772, 16 April 1859,

[2] Letter to Bengal No. 2204, 24 August 1864.

[3] Letter to North Western Provinces No. 2680, 13 September 1864.

[4] Letter to North Western Provinces No. 1171, 18 August 1865.

approvers, as serious irregularity had been disclosed in a decision of the High Court of Calcutta which had been brought to the notice of the Governor General in Council.[1] The Government of India watched closely the working of the Whipping Act, and finding from a judgment of the High Court of Calcutta that an excessive punishment had been awarded by a magistrate in Bengal, asked the Local Government to censure the conduct of the officer concerned and to warn "all magisterial officers against the perpetration of any similar abuse of powers."[2] A circular letter was, at the same time, issued to all the Local Governments prescribing government policy in the matter.[3] On the basis of its proceedings, the Government of the North Western Provinces was asked whether the use of the 'bel-chain' was still current in the jails of the province, for this practice had been ordered to be discontinued.[4]

The controlling authority of the Government of India was certain to be evoked when matters affecting peace of the country or the well-being of the people cropped up. The Supreme Government was greatly concerned at the dispute between the Indigo Planters and their tenants, which developed into riots, and consequently kept into touch with the

[1] Letter to Bengal No. 1191, 10 June 1867 and No. 2916, 31 July 1867.

[2] Letter to Bengal No. 145, 10 May 1867, and No. 3521, 16 August 8167.

[3] Circular letter No. 3514-3520, 16 August 1867.

[4] Letter to North Western Provinces No. 5485, 16 October 1866.

proceedings of the Local Government.[1] The measures for their suppression, the adjustment of differences between the two interests, and other legislative or administrative steps, were all taken with the consent of the Supreme Government. The part played by the Governor General in Council at the time of the famine in Orissa is well known. Finding that the measures adopted by the Local Government had failed to give relief, Sir John Lawrence interfered and gave detailed instructions on the means to be taken to meet the crisis.[2] Prompt interposition was the result if any Local Government showed "an inadequate sense of the obligation devolving upon it to uphold the principles" of fair and impartial justice specially as between the Indians and the Europeans. Finding that a magistrate in Bengal had "taken a very minor view of a matter in which serious miscarriage of justice had happened" the Government of Lord Elgin asked the Local Government to transfer him to another district.[3] The Lieutenant Governor of Bengal characterised his conduct as only an "indiscretion and thought that his removal was unnecessary and

[1] Judicial Proceedings, August 1860, Nos. 11, 12, 16, and 47; Annals of Indian Administration. Vol. VIII 1863, p. 72; Administration Report of Bengal 1861-62. Minute by Sir Richard Temple, Lieutenant Governor of Bengal, dated 16 March 1875 (Minutes, Vol. I. p. 109).

[2] Trotter. India Under Queen Victoria, Vol. II pp. 182-5. Campbell: Orissa Famine Commission Report; Papers relating to the Famine in Bengal and Orissa 1866-7. (Parliamentary paper 335. 1867). Bosworth Smith: Sir John Lawrence. Vol. II pages 359-62.

[3] Judicial Proceedings, January 1863. Nos. 33-46.

inexpedient."[1] The Supreme Government took strong offence and reiterated its previous opinion.[2] The minutes of the members show a strong sense of the superintending authority of the Government of India.[3]

The general tendency at this time was towards the assimilation of administrative system in the different provinces. New services were being undertaken and older ones were being rehauled. Committees were appointed by the Supreme Government to recommend the standard methods of jail administration or forest conservancy and the like. The Government of India issued Resolutions and circular letters to the Local Governments regulating detailed procedure. The

[1] Letter from Bengal. No. 5171, of 10 December 1862.

[2] Letter to Bengal, No. 545 of 24 January 1863.

[3] See Minute of Lord Elgin dated 13 January 1863, Hon'ble Maine dated 17 January and Hon'ble Trevelyan.

Maine wrote: " Lieutenant Governor has evidently been biassed by his good opinion of Mr Backett, and the superintendence of the Government of India is at no time so usefully called into activity as when principles are endangered by personal considerations." So also Trevelyan: "These papers disclose a state of things in Assam which appear to me to call for the decided intervention of the Supreme Government. No doubt this will indicate a certain divergence of opinion.. but in a case like this that is a public advantage. It ought to be seen and felt throughout India that there is a power in reserve above the influence of local and personal considerations which is entitled to the full confidence of every class of the population ". This correspondence began on an Indian mohurrir (clerk) being severely beaten by one European planter of Assam. The punishment (fine of Rs. 5) awarded by the magistrate was wholly incommensurate with the gravity of the offence. (Judicial Proceedings, January 1863, Nos. 33-46.)

report of the Jail Committee laying down general propositions for better management, discipline and sanitation in jails was referred to all the Local Governments with the request that they would take early action in regard to the measures recommended as far as those governments might consider expedient to adopt them.[1] The Government of India watched the proceedings of the Local Governments to see that action was taken accordingly and that no serious divergence arose as between one province and another. The policy was laid down in respect of the appointment of Civil Surgeons to the charge of jails,[2] the treatment of juvenile offenders,[3] the ticket-of-leave system, and other matters relating to discipline and sanitation.[4] The working of these rules was closely scrutinised and detailed instructions were issued.[5] The Local Governments resented it and thought that once the policy was declared by the Central Government they should be free to act

[1] Circular letter, 23 June 1864. (Judicial Proceedings, June 1864.

[2] Resolution H. D., 18 December 1867.

[3] Circular letter to Local Governments, No. 39, 16 July 1867.

[4] Rules in the Jail Manual: Rules relating to escort of prisoners framed by Bombay Government were approved by the Government of India (Letter to Bombay No. 1284, 16 July 1870). Rules about extra—mural labour were scrutinised and early action demanded. (Letter to Punjab No. 1045, 15 June 1870.)

[5] Judical Prodeedings, July 1867, Nos. 19-22; August 1867, Nos. 84-86; January 1868, No. 17; April 1868, Nos. 3 and 4; June 1868, Nos. 10-16; and circular letter No. 1-78-87, 16 January 1868 asking for report on the charges made by Miss Carpenter on Indian jail management.

upon it without interference. An instance is afforded by the correspondence between the Government of the North Western Provinces and the Government of India on the measure of placing the District Jails under the charge of the Civil Assistant Surgeons in that province.[1] There does not seem to be similar detailed interference with the Governments of Madras and Bombay though no departure from the rules was permitted without the sanction of the Government of India.

So also with the deparment of the Registration of Assurances. In this case, the Secretary of State

[1] The Government of India in its proceedings in Home Department No. 2508 of 19 May 1862 remarked that the Lieutenant Governor had failed to keep the Government of India informed of an important change in the administration of jails. It was communicated to the Local Government. In reply (Letter No. 1988 A, of 26 July 1862), the North Western Provinces Government submitted as follows: "The measure of placing the District Jails under the charge of the Civil Assistant Surgeons was regarded as one purely of internal administration; it involved no additional charge which would not be amply met from the profits of prison labour; it contemplated no change in the system of jail management... ; it introduced no new principle, seeing that the employment of medical officers in the management of jails had been long before recognised by the Government of India in the appointment of such officers to be Superintendents of Central Prisons; and lastly, without in any way interfering with the proper duties of the Civil Assistant Surgeons, it merely imposed upon them an additional duty...which all of them...had expressed their ability and readiness to undertake. It was certainly thought to be within the discretion of the Lieutenant Governor of North Western Provinces to introduce a measure of this kind without referring it for the consideration of the Government of India."

observing great differences in the system followed in Bombay from that of Madras and the North Western Provinces asked the Government of India to issue such general instructions as would, without touching minute details, secure "a substantial agreement of practice as to such parts of the measures as involve anything of a principle."[1] The Government of India consequently formulated general principles to be followed by all Local Governments with regard to fees, establishments and their salaries.[2] Further in the matter of the services, the Government of India laid down rules in respect of the training of Civil Servants, their promotions to higher grades etc.,[3] the qualifications of the judges[4], and general regulations relating to appointment, leave, dismissal and the like.[5] Also at this date the Supreme Government desired a larger employment of the Indians in the public services, for which purpose it gave instructions from time to time.[6] Within the general limits so prescribed,

1. Despatch of the Secretary of State dated 24 November 1866. Resolution H. D. No. 870, 21 February 1868.

2 Resolution H. D. No. 14, 4 December 1869.

3 The Government of Bengal was reprimanded for deviating from the rules regarding the passing of examination by the Deputy Collectors before their promotion. See letter to Bengal No. 1060, 23 May 1869.

4 Letter to Bengal No. 611, 28 March 1861.

5 Civil Service Regulations.

6 Resolution H. D. 19 August 1867; Despatch from the Secretary of State, No. 10, 8 February 1868 and circular letter to Local Governments, No. 1610-13, 2 April 1868 (Public Proceedings, 4 April 1868, No. 75),

the Local Governments, as stated earlier, were free to make appointments to offices and manage the services in their provinces. With regard to judicial administration, since the inception of the High Courts which were responsible for the supervision of the lower courts, the control by the Government of India was mostly financial as affecting the establishment of the courts and the salaries of the staff. In the case of the High Courts (except Calcutta), however, even that check was abrogated[1]. But it exercised executive authority over the High Court of Calcutta and the Chief Court of the Punjab. Nevertheless, the structure of the lower courts was defined by the codes framed by the Supreme Government, their jurisdiction was regulated, and reports on their work were asked for by the same authority. After the Mutiny the Government of India was keen on establishing Small Cause Courts and we meet with many references on the subject. So also the policy of appointing Honorary Magistrates from among the influential Indians was enunciated for political reasons and the Local Governments were asked to give effect to it[2].

[1] Letter to Bombay No. 2767 dated 29 April 1863 (Judicial Pro. April 1863 Nos. 66-72). Under section 6 of the Letters Patent.." the Governor in Council of Bombay acting irrespectively of the Government of India, is constituted the final judge of the propriety of the High Court establishment. In this matter the Supreme Government is debarred from exercising its ordinary financial conrtol".

[2] Letter to Bengal, No. 49, 7 January 1861. (Judicial Pro. January 1861, No. 7).

Even such departments as education and municipal in which more latitude was necessary owing to the character of the service involved, felt the controlling hand of the Supreme Government. Apart from financial checks constant enquiries were being made with a view to testing how far they followed the general principles. Reports and returns were demanded. As the main lines of educational policy were sketched by the Secretary of State, the Government of India considered it essential to superintend some of the local details also[1]. In municipal affairs too, it drew the attention of the Local Governments "to the greater need of stimulating action by local officers in furthering action" under the local Municipal Acts as progress was not satisfactory, and suggested that the funds should be used for education, hospitals etc[2]. Later

[1] The Local Governments were empowered to make alterations in the educational establishments as were absolutely necessary, but such arrangements would not involve additional expenditure. Changes involving additional expenditure required to be reported (Resolution H. D. 8 April 1859). On a review of Madras report Government of India objected to grant-in-aid rules (Letter to Madras No. 1077, 28 May 1859) ; Resolution of 7 January 1860 relating to employment of missionaries in the education Departmnt ; Resolution H. D. No. 20,9 January 1864 ; Resolution H. D. No. 32, 19 January 1864; Letter to Punjab No. 346. 14 January 1864 requiring information on certain points before sanctioning increased expenditure for Medical College, Lahore; Circular letter No. 2582-91 dated 20 July 1867 relating to female education ;

[2] Resolution H. D. No. 28, of 10 April 1861, and Financial Resolution No. 2245 of 31 August 1864 laid down comprehensively the policy of the Government of India regarding municipal administration.

we find the Central Government interfering with the details of octroi taxation, lest it should develop into a transit duty affecting the general trade of the country[1]. So also, much activity was shown in regard to sanitation, being greatly stimulated by the report of the Army Sanitary Commission. References on Lock-Hospitals, control of the markets near the cantonments, water-supply and sundry measures were numerous.

During this period too, the control which was most galling to the Local Governments, particularly of Bombay and Madras, was that exercised in the Public Works Department. It was twofold, financial and administrative. With regard to the projects to be carried out of the Imperial funds there were two limitations on the powers of the Local Governments, firstly that all works estimated to cost a sum beyond a fixed limit must be sanctioned by the Government of India, requiring approval of the scheme and the detailed estimates therefor, and secondly that there should be provision for the same in the budget. No scheme which had not been previously accepted by the Government of India could be inserted in the budget, and without budgetary sanction no project

[1] Resolution H. D. No. 4440-47 of 6 November 1868. Laying down general rules for the collection of octroi by the Municipalities, it stated "The Governor General in Council prescribed for general adoption these rules. He requires that the existing rules may be brought into conformity with them and that they may not be deviated from, without the previous sanction of the Government of India."

could be put into execution.[1] Apart from financial considerations, the technical aspects of the particular works required scrutiny in the Central Department, specially because some of the proposals were crudely framed, or because as in the case of the jails or such other buildings a standard plan was fixed, conformity to which was desired in all cases. The Government of India, by this means, desired "to make as wide as possible a use of the larger experience at its disposal in regard to sanitary as well as other considerations and to have these fully brought into play." One object of this superintendence was to promote systematic and steady progress in improvement consistent with financial practicability[2] Apart from these checks, the Madras and Bombay Governments were free to sanction works costing Rs. 2 lakhs each, subject to the maximum of the budget grant under each major head for the year. The limits for other Local Governments were lower.[3] It was necessary that the works thus left for the Local Governments

[1] P. W. D. Code of Regulations 1866. Chapter XVI (Budget Rules) paras 47-50.

[2] The Government of India desired that jail construction should follow a standard plan, and wished to send a specimen plan and estimate for a jail. The Government of Bombay objected to checks on their authority in the execution of public works and said there were triple checks. The Government of India explained its policy in the matter in their letter to Bombay P. W. D. No. 2355, dated 5 March 1866 (Judicial Proceedings. March 1866 No. 32).

[3] Bengal, N. W. P. and Punjab Rs. 50000 and Oudh, Pegu and Nagpur Rs. 10000.

to execute on their own authority should be such as were recognised by ordinary practice to be authorised conveniences for the public service.[1] The restrictions on their power to sanction ecclesiastical works or residential buildings were greater. The Supreme Government was careful to see that the schemes of the Local Governments were consistent with its general policy and took account of the pressing needs of the country. These checks were embodied in the Budget Rules issued in 1861, which were subsequently incorporated into the Public Works Department Code of Regulations.[2] These principles were reasonable in themselves. In the words of Colonel Dickens "they all tend to cautious and systematic procedure and to repress the ardour of the Local Authorities for instant action and promising projects."[3]

Nonetheless, a disposition to enlarge the discretion of the Local Governments is marked in this department as well. Their financial powers were increased and they were permitted to make reappropriations between different items under the same major head. So also in regard to appointments, the Madras and Bombay Governments could appoint to any office in the Department, and the Lieutenant Governors were permitted to appoint and transfer

[1] Note by Col. Dickens, Public Proceedings, 7 December 1867; P. W. D. Code of Regulations, Chapter XVI, para 51.

[2] Moral and Material Progress Report 1861-2 Part I pp. 235-43 contains these rules.

[3] Note by Col. Dickens, Public Proceedings, 7 December 1867.

the executive engineers assigned to their provinces by the Supreme Government. But the powers of appointing and promoting Chief Engineers and Superintending Engineers were still vested in the Government of India, though recommendations could be made by the Local Government on the occurrence of a vacancy. These Local Governments were competent to appoint and promote lower subordinates.[1] No Local Government, however, was authorised to create any post without the sanction of the Government of India. These sanctions were often carried down to very small matters as for instance, "a watchman on 8 shillings (Rs. 4) a month, required the sanction of the Governor General in Council."[2]

Despite the discretion conceded to the Presidency Governments, the number of references from these authorities to the Supreme Government is appalling. A precis of cases of interference by the Government of India with the Governments of Madras and Bombay in the Public Works Department was made in 1867 and affixed to the note of Colonel Dickens, Secretary to that Department. From that we learn that during the first half of the year 1867 there were 218 references from the Government of Madras of which only 11 resulted in the difference of opinion of which 8 were minor and 3 major cases. During the same period there were 540 references from Bombay

[1] P. W. D. Code of Regulations 1866. Chap. I Sec. ii; Moral and Material Progress Report 1861-62 Part I. p. 215.

[2] Note by Col. Dickens: Public Proceedings, 7 December 1867.

of which 66 resulted in difference of opinion, 13 being more important and 53 minor cases.[1] The measure of interference in previous years or with other Local Governments can only be conjectured. Accounting for the above inequality, the statement adds "the business communications with the Bombay Government have been much more active and the cases of difference much greater in number than with Madras. But besides this distinction in quantity there is also a remarkable distinction in kind as to the general character of the cases. The Madras Government appears rather to have sought to be left alone to pursue its own course, and not to press forward either for change or for progress in construction of works. The Bombay Government on the other hand, seems to have sought progress at any cost, and its proceedings can only be characterised as indicative of unsystematic and extravagant outlay.[2]" Such cases arose either from the inability of the Local Governments to secure proper sanction for their projects and estimates or from their sanctioning expenditure beyond their powers. These disputes brought to the surface the overweening sense of their independence cherished by the Presidency Governments.

It must be clear from the foregoing that while leaving the details of administration to the discretion of the Local Governments the Supreme Government required their rigorous

[1] Note by Col. Dickens Memorandum, attached to the Note. [2] Ibid.

adherence to the general principles of state policy. For this purpose an agency was devised in the appointment of Imperial Officers. Five such offices were instituted before 1870 namely the Inspector General of Police (abolished in 1864), Inspector General of Forests, Inspector General of Irrigation, Inspector of Public Works Accounts, and Sanitary Commissioner. They were intended to be merely advisory and consultative officers of the Government of India and their functions were defined with extreme cautiousness so as not to provoke the apprehensions of the Local Governments. It was clearly stated in the Resolution appointing Colonel Bruce as the Inspector General of Police that there was no desire "to cramp the authority of the Local Governments."[1] But it could not prevent alarm in those Governments. The Madras Government protested against the visit of inspection of Colonel Bruce as well as against certain reports and returns asked for by that officer.[2] The Secretary of State took objection to the office as likely to interfere with the authority of the Local Governments and disallowed it. Similar protests were made in the case of Inspector General of Forests, who was authorised to correspond with the Conservators of Forests only on technical and professional matters.[3] The Government of India

[1] Resolution H. D. 9 April 1862 (Judicial Pro. April 1862, Nos. 25-28).

[2] Letter from Madras to Government of India No. 210, 23 December 1862 (Police Pro. January 19, 1863, Nos. 18-20) and Madras Letter No. 319 dated 5 March 1864 (Police Pro. April 1864, Nos. 13-15.)

[3] Resolution P. W. D. No. 11 of 1 September 1870.

never-desired and certainly did not use these officers to tighten the central control over the administration of these departments. But the Presidency Governments considered them as encroaching on their legitimate authority. Their fears were not quite unfounded. For however carefully the rules may be worded, exercise of those functions must have led eventually to more frequent interference by the Supreme Government.

Taking stock of the situation it may be stated that after the Mutiny the control by the Government of India in all the departments became more systematic, though at the same time a tendency of leaving greater liberty in details to the Local Governments is discernible. Except in respect of new expenditure the aim of the Supreme Government was to secure conformity of the subordinate Governments to the general principles of state policy. No doubt at times it descended to the level of supervising details, but such cases were few and concerned mostly the governments of northern India. The Governments of Madras and Bombay had ample discretion in their internal administration save in so far as they had to adopt the main lines of policy adumbrated by the Government of India. In the field of legislation, too, the control exercised by the Supreme Government did not exceed the limits of the law. In finance, certainly, the domination of the Governor General in Council was overwhelming as it comprehended even most minor affairs, and it was natural too so long as the revenues of the whole of India formed one

common purse. But the control by the Government of India was chiefly budgetary and often tended to be nominal owing to its inability to scrutinise every petty item of the local estimates submitted for sanction. Nevertheless, it was resented by the Local Governments and was mischievous while being ineffective. The Government of Bombay evaded it often, thus embittering the relations between the two. Lack of responsibility and neglect of economy led to occasional extravagance in the provinces, resulting in recurring financial deficits. The Government of India during this period did not consider that its interference with local administration was either minute, unauthorised or unjustified. On the contrary it held that the Governments of Bombay and Madras were allowed greater liberty than was compatible with its own responsibility under the law. The right of direct correspondence with the Secretary of State possessed by the Presidency Governments was objected to as leading to insubordination in them and the Government of India tried to restrict its extent. The Presidency Governments on their part were always complaining of their galling subordination.

The reasons for the control.

It is necessary at this stage to examine the circumstances which made for centralisation during this period. The first reason for the control exercised by the Government of India was its responsibility to the Secretary of State and the Parliament for the government of this country. The Government of India was accountable

to him for its financial and administrative dealings. This control was not nominal, for owing to increased facilities of communication, the supervision was often very close. No doubt, the Secretary of State had delegated limited authority to the Governor General in Council, but in all essentials the policy was either laid down by the former or finally sanctioned by him. The Government of India was charged with executing it. It was natural that, in these circumstances, the Government of India should in its turn maintain a rigorous check on the subordinate governments. There was a tendency for centralisation at the India Office and it is no wonder that it was reflected in the administration in India as well. It may be contended that the local Governors could be directly responsible to the Secretary of State. This assumption postulates the existence of separate Local Governments independent of any authority in India, a position at once impracticable, dangerous to the stability of the British Empire in India and contrary to the existing law. Political and military considerations required unity of control in India itself and as long as that was the case, the supremacy of the Government of India in all matters was a foregone conclusion.

Thus we come to the second reason for control, viz. the exigencies of Indian interests as a whole. It was thought that the power and the resources of the whole Indian Empire should be capable of being directed, when required, on any one Imperial object in all emergencies. Hence a due regulation of

finance was essential. Also the same method was adopted with a view to maintain the credit of the Indian Government[1], for if the revenues of the country were frittered away or partitioned among many autonomous governments, it might shake the confidence of British capitalists, leading to a diminished investment of their capital in the public works of the land.[2] Therefore, the Government of India must have the sole direction of the financial administration of the country. Moreover, so soon after the Mutiny, it was inevitable that a close eye should be kept on every detail of administration lest any false step should lead to a conflagration. This scrutiny could be provided by the Supreme Government alone, which from its situation could take a broad view of matters. The stability of the Indian Empire thus required a strong central authority in India.

The third factor was the need for uniformity. Conditions of service must be alike in different provinces, for favourable treatment in one was certain to raise the demand in the others. The Secretary of State desired that judicial "procedure at all the Presidencies should be assimilated so far as possible." The organisation, too, of provincial departments was required to be on similar lines. "The changes and ameliorations" which "involve

[1] Memorandum by Sir John Lawrence, Governor General, 20th January 1868. Public Proceedings, 28 March 1868. No. 151, (Parliamentary Paper 1868. Vol. 40.)

[2] Minute by Sir Henry M. Durand, dated 7 October 1867. Ibid No. 154.

questions of principle and are of general importance cannot be dealt with as affecting" one province alone. It was true that all the parts of the country had not attained the same level of progress, but for that very purpose it was desirable that the main outlines of reform should remain identical. Much of the interference by the Supreme Government in the affairs of local administration can be justified on this score. This suggests two more factors, namely the interests of good government and the pressing requirements of economy. In the cause of peace and prosperity, of impartial justice between class and class, of humane and enlightened principles of government, of intellectual and economic progress of all that was identified with the British rule in India, the Government of India might well be compelled to interfere with the local administration. Such public opinion as could find expression necessitated a close watch on the acts of the subordinate agencies. Then the growth of expenditure and the reluctance of the Government to increase taxation already heavy required comprehensive retrenchment and effective economy in administration. The Supreme Government insisted on reductions which led to greater control over the Local Governments, not only in financial matters but in almost all their affairs. For a decade or more after the Mutiny interposition in local details is therefore very frequent.

Lastly, it must be mentioned that in the absence of local and popular checks, the superintendence of the Government of India was inevitable. Sir H. M.

Durand pointed out that "there is not a shadow of the control by the people or their representatives in the case of Indian administration"; and when "all control by the people is entirely ignored, the only real practical control that remains is that of the Central Government."[1] In the case of a Lieutenant Governor, "where the whole power of Government", in the words of Sir William Muir, "vests in a single individual, it is never safe to relax a certain measure of oversight. For however good a thing it is to have the personal activity and responsibilty proper to individual action, you are at the same time liable to personal idiosyncracies, to an overzeal or activity in some particular direction, and sometimes also to the prevalence of a crochet or to remissness or unwillingness to grapple with some special question, or perhaps to neglect altogether some special department. Therefore a certain degree of control is indispensable."[2] In the case of a Governor and Council too, the necessity of superior control was proved by the irresponsible and highly partisan action of the Governor of Bombay in respect of the Back Bay scheme (1866) and the Bombay Bank legislation.[3] It may be pointed out here that the educated public of India wanted a greater exercise of supervisory powers of the Parliament, for in the absence of representative institutions in the country

[1] Minute by Sir H. M. Durand, dated 7th October 1867.

[2] Note by Sir W. Muir, Public Proceedings, 7 December, 1867.

[3] Trevelyan's evidence before Select Committee 1873 Q. 498; Trotter, pp. 198-9.

they looked for a safeguard against misrule in the scrutiny and criticism of that sovereign popular assembly.

For all these reasons the control by the Government of India was both inevitable and indispensable. Sir William Muir summed up the position in the following words.

" I submit that it is essential to our prestige that the Viceroy of India should, in the eyes of the people of India, be the impersonation of British power and justice and not a simple shadow. India must feel that our Empire here is, not a mere aggregate of separate governments each working and independently for its own ends weakly controlled from afar, but one Empire, ruled by a single hand.... anything which destroys that idea will seriously affect our prestige ; and what is more everything which destroys the reality, will sap the foundations of our rule[1].

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[1] Sir John Lawrence also wrote : " It seems to me to be of Imperial importance that the office of Governor General should be preserved in an effectively powerful position. This appears essential for the securing of uniformity on those points where it is needed, for the due regulation of finance, for the wielding of the national strength of India in all emergencies " (Public Proceedings, 7 December 1867.)

CHAPTER III

EARLIER SCHEMES OF DECENTRALISATION 1860-1870.

Factors leading to Decentralisation.

Centralisation was the political creed of the time in India as the entire constitution of the Government was based on it. But in actual practice, as has been indicated in the foregoing chapter, it was greatly tempered by the demands of the situation. The opposition of the Presidency Governments, the lack of knowledge in the Supreme Council about the details of administrative needs in the distant provinces, and the impracticability of maintaining a minute control on the local administration, all tended to an occasional relaxation of supreme authority. In fact, centralisation in its literal sense had never been given an uninterrupted trial. Nevertheless, it must be admitted that even the most sanguine optimist could not contemplate a prolonged establishment of that idea in India without apprehending an eventual breakdown.

The vastness of the country with its multifarious population organised in units having different languages, as well as varying social and economic systems, made uniformity impossible. The evolution of the administrative and legal system under the

British rule also had adopted the Presidential framework. As a consequence, when political life developed it at once assumed a local aspect. Calcutta, Bombay and Madras were the centres of this slowly unfolding public opinion, and naturally its vision was limited to the matters immediately within its ken. When therefore political life centred round provincial organisations, many schemes of reconstruction tended to strengthen the Local Government as against the Government of India. After the Mutiny, decentralisation implying the largest measure of discretion to the Local Government, both in general administration and finance, became the basis of proposals for administrative change. Mr. John Bright in 1858 proposed the division of India into a number of autonomous Presidency governments, each directly controlled by the Secretary of State, without the intervention of the Government of India which might be abolished.[1] He considered decentralisation as the one essential condition of progress in this country. "What you want" he said, "is to decentralise your government. You will not make a single step towards the improvement of India unless you change your whole system of Government, unless you give to each Presidency a government with more independent powers than are now possessed."[2] Since then decentralisation became

[1] Mr. John Bright's speech in the House of Commons, 24 June 1858. (Speeches, Vol. I, pp. 48-54).

[2] Speech in the House of Commons, 1 August 1859. (Speeches, Vol. I, p. 103 and p. 109) Mr. Bright repeated

part of the policy of the Indian Reformers in England, and was later on taken up by the advanced political section in India also.[1]

Soon after the Mutiny it was found that centralisation had not been without serious difficulties and defects, the most important of which was the chronic state of conflict between the Government of India and the Presidency Governments, leading to serious inconvenience in administration. The Local Governments felt that they were unnecessarily restrained by the Supreme Government in their effort to do good to the people under their charge. The greatest resentment was against the financial control by the Government of India which without effecting much economy embittered the relations between the two. The Government of Bombay by "taking the bit between its teeth" habitually defied the authority of the Government of India and authorised expenditure not sanctioned by the latter.[2]

the proposal in his speeches on 18 December 1862 at Birmingham (Tract, I. O. L. Vol. 162) and at Manchester on 11 December 1877.

[1] Eg. Prof. Fawcett, M.A. in England; Hansard Vol. 191 p. 1842; Parliamentary debate on 'East India Accounts, 12 August 1867. Hansard Vol. 189, pp. 1341-1410. For Indian opinion see proceedings of Bombay Presidency Association, East India Association etc. (Bombay Association Petition to Parliament in 1852. Tracts I. O. L. Vol. 156, pp. 11-15; also report of the Association' Vol. 512).

[2] Trevelyan. Evidence before Select Committee 1872-73. Q. 561-70. See Thomas: The growth of Federal Finance in India, Chapter XI for some details of this conflict between the Government of India and the Presidency Governments.

Moreover, owing to the lack of responsibility there could not develop a sense of economy in the Local Governments. Extravagance or expense disproportionate to the resources of the state, was the result. That in turn led to serious dislocation of the financial system, and deficits were the consequence. Control over the expenditure of the subordinate Governments and exhortations for economy having failed to have due effect, other methods of making the two ends meet had to be considered. Also, the work of the Central Government had increased immensely owing to the necessity of scrutinising the details of local administration. Relief to the Supreme Government could be secured only by entrusting more authority to the subordinate agencies.[1]

[1] Sir Henry Maine wrote in 1867. (Quoted by Strachey in his Minute on the administration of Lord Mayo)

"I do not think that anybody can have observed the recent workings of our system of financial control without coming to the conclusion that if it be not on the point of an inevitable collapse, it is at all events in great danger of going to pieces, unless the strain be lightened somewhere. The rules imposed on the Local Governments depend for their force, like all laws, on the efficiency of the penalty which they threaten in the event of disobedience. The penalty is, in the present case a repoof from the Government of India. But if any Local Government has become—which any Local Government might become at any day—entirely callous to the rebukes of the Government of India, through discovering—which any Local Government may at any time discover—that these rebukes lead to no ulterior consequences, what impediment remains to the employment of one or more among the hundred expedients by which the Central Government may be normally compelled to condone infractions of its rules, and to allow the share of its revenues which it has allotted to a particular province to be exceeded".

The local administrators could not be blamed for their zeal to improve the country in their charge. With new education and new standards of civilisation, a demand had arisen for modern means of communication, for urban improvement, for police, for schools and colleges and for facilities of irrigation etc. To provide all these, money was required. The Central Government could not provide funds for internal development because of its growing military, political and general administrative expenditure pressing hard on the revenues. The Supreme Government was naturally reluctant to increase taxation, as in the absence of any voluntary impositions by the people themselves, it must be resented as an act of despotism giving rise to discontent. Thus the very need of general improvement and up-to-date administration made for change in the system.[1]

There is one more factor which might have led to decentralisation. As a result of the Mutiny it was felt necessary to bring the measures,

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[1] See Maine's Minute, 16 March 1868. (Public Proceedings, 26 March 1868.)

"Is it not the fact that India is daily becoming more difficult to govern, more submissive certainly as regards physical resistance, but more exacting in its demands for good, precise and politic Government? It seems to me a man must be very unobservant who does not perceive that a time is near at hand when either the duties of the Government of India must be ill-discharged, or their sphere must be contracted. The present opportunity seems to me an excellent one for making timely provision against an inevitable future by conceding comparative independence to a province which, after all, from the very necessity of the case is even now pretty much left to itself",

specially legislative and financial, of the government under public scrutiny, so that the Government might be able to know the public feeling before discontent flared up into open revolt. Also it was considered desirable to associate Indians with the administration with a view to train them for the ultimate, though distant, purpose of governing themselves, "the end and object of our (British) connection with that country."[1] It could not be conceived that they should be given at that time any share in, or influence over, the complexities of Central administration. The only field for experimentation was the Local Government or municipal administration. When the proposal for the reconstitution of Legislative Councils was being discussed in 1860-61, the importance of the admission of independent members, European and Indian, was emphasised. There was "considerable difficulty" as Sir Charles Wood remarked, "in assembling at any one place, official and non-official persons from distant parts of India, who may bring to the Council of the Governor General the advantage of their knowledge of different parts of the country". But it was felt that the "grant of legislative powers to councils in other parts of India" would render "it less necessary to have such persons present" in the Supreme Council.[2] At the same time, opinion was expressed though was not adopted, that such

[1] Trevelyan's Evidence, Q. 866 ; Select Committee on Indian Finance 1872-73.

[2] Despatch from Secretary of State No. 14, 9 August 1861.

local councils should discuss the "budget or apportionment of the funds annually assigned by the Supreme Government for expenditure on police, education, public works etc., etc.," that is they should have the right of reviewing Local Government's expenditure and also be allowed "to lay on local taxes for local purposes."[1] It may further be pointed out that before 1870 many schemes for financial decentralisation or local taxation did include provision for non-official control, howsoever nominal, either in the local bodies or in the local Legislative Council.

Schemes of Decentralisation.

The establishment of local Legislative Councils was the first step in the direction of decentralisation. But the question was tackled seriously only when the government was faced with a serious financial crisis, and most of such discussions were "generated by financial necessities."[2] A commencement was made with the deficits of

[1] Minutes of Sir Bartle Frere, 16 March 1860 and 29 December, 1860. Also Minute by Mr. Laing dated 28 January 1861: "Even as regards finance, I should look forward to the time when, after meeting Imperial charges by general taxation, Local Governments might be allowed to levy local taxes for local objects; and to apportion the sums allotted to them by the general budget, within certain limits as they thought most desirable. The revision of the general estimates sent up by each Presidency to the Central Government would also be a duty in which the local Councils might usefully assist." (A selection of Papers relating to the constitution and Functions of the Indian Legislative Councils printed for private use in 1886).

[2] Finlay. History of Provincial Financial Arrangements, para. 11.

1859-1862 and discussion was further carried on when the deficit recurred in 1866. The failure of relief measures in the Orissa famine also afforded occasion for considering the best form of government for Bengal, and opportunity was then taken to discuss the relations of the Presidency Governments with the Government of India. But the problem was not easy to solve. It was not possible to dissociate financial relations from the question of general central control. Prejudice, fear of innovation or exigencies of Imperial considerations, did not allow any radical change.

When in 1868 this question was taken up the members of the Government of India as well as members of the India Council expressed their opinions. Excluding Sir F. Halliday who desired a return to the old conditions when the local Governors were left "to do their own work for themselves controlled wholly or chiefly in England,"[1] no one wished the abolition of the authority of the Governor General in Council. The main issue was how to continue "the two great objects" of maintaining "a great central authority" charged with "superintendence, direction and control of the whole civil and military government of India" and preserving "local efforts and local administration" necessary "for all lasting improvements in government and for the greatest development of

[1] Memorandum by Sir F. Halliday, 16 December, 1867, (No. 2 P.P. 1868 Vol. 49.)

the different and differing nationalities of India." [1] Conservative statesmen who believed that the British Government in India was standing on the edge of a precipice, desired further strengthening of the powers of the central authority or at least no change in the existing system. Whereas there were others who, being impressed by the altered situation, were prepared to relax control over the subordinate Governments, "for the purpose", as Northcote put it "not of weakening, but of strengthening the Government of India." He favoured this course because he thought it "important for the interests of the people of the Presidencies which are likely to be better attended to," and "for the sake of the Government of India, which is in danger of being overwhelmed with the constantly increasing mass of detail work consequent on its being charged with matters which might safely be left to the governments of the Presidencies." [2]

Those who favoured loosening of control included besides the Secretary of State, Sir Bartle Frere, Mr. Arbuthnot, Sir Henry Maine, Mr. Taylor, Sir John Strachey, Sir William Mansfield and Mr. Grey, the Lieutenant Governor of Bengal. They recommended a full government for Bengal and were in favour of withdrawal of the Government of India from a minute control over the details of local administration. They considered it important

[1] Memorandum by Sir Erskine Perry (No. 13 P. P. 1868 Vol. 49).

[2] Letter from Northcote to Sir F. Currie 14 November, 1867. Ibid.

that the Government of India must confine itself to general supervision and determination of all-India affairs. In legislation, they desired the local legislatures to undertake all provincial legislation, the Supreme Council being concerned only with the general laws. Criticising the proposal by the India Office Comittee for the abolition of the Legislative Council of Bengal,[1] Mr. Grey argued that the time had come when the "natives of the Province and the English residents have a reasonable claim to be admitted to a share..., a larger share, in framing their Municipal laws, or the laws which are necessary for the ordinary purposes of domestic administration". He held that it was not possible to have any semblance of representative element in the Central Council and so that body must confine itself to "general legislation, such as codes of general substantive law, codes of judicial procedure and other laws suitable for general application", subjects to be "properly carried on by a purely official body". Moreover, he pointed out "it is possible to look forward to a time when a local legislature or some such consultative body as that just asked for by the British Indian Association, shall take part in regulating the expenditure of local taxation. It is not possible, I think, that any agency of that sort can ever be usefully employed in connection with the General Budget of the Empire." He desired the Governor General's Council to abstain

[1] Report of the Special Committee of the India Council, 14 November 1867. (P. P. 1868, Vol. 49).

from local legislation and suggested that the "North West Province must have a council of its own, and the restrictions imposed by the Indian Council's Act of 1861 on the discretion of Local Councils in local legislation should be waived aside". The Lieutenant Governor of Bengal went to the length of suggesting that the Governor General in Council should be divested of all direct administration as in the case of the Chief Commissionerships, for that "leads the Government of India insensibly to interfere with the internal administration of the Lieutenant Governorships to a greater extent than is necessary or desirable." He hoped to see "a more distinct and definite line established between the general superintendence which a great central authority should exercise, and that freedom of executive authority which should be entrusted with confidence and generosity to Local Governments." He recommended also greater latitude in financial administration.[1]

One main consideration of these statesmen was to lighten the work of the Central Government so that it could, with greater ease and effect, execute its function of general superintendence. They realised that for the due discharge of its responsibility for military, political and other imperial interests it was necessary to delegate authority to the Local Governments in matters relating to internal administration. The course of administrative

[1] Mr. Grey's Minute, 13 March 1868 (P.P. 1868 Vol. 49)

evolution had definitely marked off Imperial from Local or Provincial subjects. The advocates of the so called federalism based their proposals on this division. Chesney propounded a scheme in his "Indian Polity" by assigning Defence, Foreign and Political affairs, Imperial services like Post Office and Telegraph, as well as guaranteed Railways and Debt to the Central Government while leaving all other heads of public service to the Local Governments.[1]

With regard to general control over the provincial units, there were two views: first, that, as before 1833, there should be three Presidency Governments, or if necessary one more should be added, which should be for all purposes in direct communication with the Secretary of State, and the Governor General being the head of one of the Governments should act merely as primus inter pares,[2] and second, that the general superintendence should vest in the Governor General who "should be the sole authority" in India "responsible to the Secretary of State," and that "the Local Governments should not have the right of direct correspondence with the Home Government." Sir W. Mansfield's assent to "financial decentralisation" was contingent on this

[1] Chesney: Indian Polity, Ch. III. Chesney did not consider a federation of independent states feasible at the time, but was opposed to extreme centralisation and so proposed to make the Local Governments responsible for revenue and expenditure.

[2] John Bright's speech, 24 June 1858 (Speeches, Vol. I, pp. 50-55) Also Halliday. Opcit.

privilege being withdrawn from the Governments of Madras and Bombay.[1] There was a strong feeling in the Government of India against the Presidency Governor approaching the Secretary of State otherwise than through the Supreme Government as was the case with the other Local Governments.[2]

In respect of financial control, also, decentralisation was suggested as the chief remedy for the inharmonious relations between the Supreme and the Local Governments, and the dislocation of finances resulting in constant deficits.[3] Almost everyone was agreed that the Local Governments must be allowed some discretion in settling their budget and managing their expenses. But different proposals were made to secure this end. While some recommended a complete separation of local and central finances, others were prepared only to extend the limit of the sanctioning power of the Local Governments in respect of the public works expenses and the entertainment of public establishments.[4]

[1] Minute by Mansfield, 24 February, 1868 (P. P. Vol. 49, 1868)

[2] See Notes by Bayley, Dickens and Muir in Public Proceedings, 7 December 1867. Sir John Lawrence did not see much harm in that and was prepared to allow it to continue. Mr. Taylor was not opposed to it but wanted modification so that references on all important matters like Army, Finance, Foreign relations etc. should be made through the Government of India.

[3] Between 1860 and 1870, there were six deficit years and four surplus years.

[4] Sir C. Trevelyan etc. of the former and Lt. Col. Dickens and Mr. Muir in their Notes of the latter view (Public Pro. 7 December, 1867)

Also as a means of freeing the Local Governments from the annoyance of central scrutiny and veto on their expenditure, "the principle of transferring the power of local taxation to a limited extent to the different Local Governments" was officially put forth.[1] At the same time a more comprehensive scheme for the division of functions and the separation of the local from the central budget was discussed in the press and on the platform.[2] The advocates of this scheme had before them the model of the United States of America. They proposed that the Local Governments like the States in the other Hemisphere should own the revenues collected within their territories. But as the Central Government would manage the army, the diplomatic service and the debt, contributions should be made to that authority by the Local Governments out of their revenues for such general expenditure. Sir Charles Trevelyan, one of the advocates of this policy, said that "the principle of apportionment would be that the cost of civil administration would be a first charge upon the revenues, and that the surplus of the different Local Administrations would be drawn upon pro rata for the expenses of the Army and the other services, under the immediate direction of the Supreme

[1] Sir Stafford Northcote's speech in the House of Commons, 12 August 1867. Such schemes were proposed by Messrs. Wilson, Laing and Massey (Financial Statements 1860, 1861-2, 1862-3, 1867-8).

[2] Proceedings of the Bombay Association (Tracts. I. O. L. Vol. 512). Proceedings of the East India Association, 1870; George Campbell: The Capital of India 1865 (Tracts Vol. 503) etc.

Government."[1] Also that "the Supreme Government and the Local Government would each make up an annual Budget of its own, which would be fully discussed in their respective Councils," but the whole might be compiled in one by the Supreme Government and submitted to the "Home Government" with the latter's remarks. This scheme was taken up by the Bombay Presidency Association which suggested it as a method of providing "a check in India against unnecessary increase of taxation and expenditure" and of giving "to the representatives of different classes of Her Majesty's subjects an effective voice in the imposition of taxes, the disposal of revenues, and enactment of laws."[2] A similar plan was outlined by the "Hindu Patriot," an Indian Journal of Bengal.[3]

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[1] Trevelyan's Paper read before East India Association in 1870.

[2] Mr. Norowzjee Furdunjee's letter to Mr. Gladstone, London 21 December, 1870. (Minutes and Proceedings of the Third Annual General Meeting of the Bombay Association, 5 October, 1871, p. 34)

[3] Quoted by R. Knight in "Decentralization of the Finances of India (1871) p. 8. "Our plan of decentralization is this—we would separate all the imperial charges from the local budgets and exact a percentage as a sort of tribute from the Local Governments for the defrayal of imperial expenditure. This percentage the Local Government should be required to make a first charge upon their respective revenues, and any surplus should be applied to its own benefit" (Hindu Patriot).

Earlier projects of Financial Decentralisation discussed by the Government of India.

The Government of India too, was not idle. Being faced with the recurring deficits, the successive Financial Members of the Governor General's Council, considered the best means of relieving the central exchequer by throwing a part of the burden on the Local Governments or the local bodies. Without in any way diminishing the supreme control by the Government of India, they desired to minimise the occasions of conflict with the Presidency Governments and to tap sources of taxation which were sealed to the central authority. Starting from the proposal of Mr. Wilson for an income-tax of one per cent for strictly local purposes, in the appropriation of which the municipalities might have a voice,[1] we come to the more definite scheme of Mr. Laing for making over to the Local Governments certain objects for local taxation to meet local expenditure.[2] He was convinced that the means for the internal development of the country could not be provided for from the central treasury, and so at a time when "Imperial allotment to the Local Governments" for public works had to be curtailed, he decided to give them "powers of local taxation" by which they might be able to raise the residue. These taxes were such as were inappropriate for general and uniform

[1] Provincial and Local Finance. Synopsis of Schemes 1861—1872, p. 1. Financial Statement 1860.

[2] Circular Letter, March 1861 to Local Governments; also Financial Statement, 27 April 1861.

incidence. By this means he expected to afford relief to the Imperial Budget and obtain more money for expenditure. Other advantages of a permanent character were also claimed, the chief being a partial release of the Local Governments from the "galling and humiliating dependence on the bureaux of Calcutta." Also by crediting "them with a liberal share of reductions of expenditure" he hoped to give them "a direct interest in economy." Moreover, "such a system of local budgets," it was his belief, "would harmonize extremely well with......local Legislative Councils," and finally he thought it "would greatly foster the growth of Municipal institutions."[1]

This proposal met with a good response from the Local Governments, but the scheme could not be put into action for the reason that "it would have been manifestly improper to anticipate the action of the local Legislative Councils in a matter which is so peculiarly their province."[2] Mr. Laing, however, was in favour of breaking through "the system of barren uniformity and pedantic centralization" by giving to the Local Governments "the power and the responsibility of managing their own local affairs." He held that the great branches of revenue and expenditure must remain Imperial, but still there was "a wide field both of revenue and expenditure which is properly local and which must be met locally or not at all."[3] This

[1] Financial statement by Mr. Samuel Laing 1861-2.
[2] Financial statement by Mr. Samuel Laing 1862-63.
[3] Financial Statement 1862-3.

plan was not pursued further, for with the return of solvency, the need which had stimulated thoughts of economy was over. But the prosperity was very temporary. In 1866 again the budget showed a deficit, which recurred in succeeding years. Mr. Massey who was then the Financial Member, took up the question anew and formulated a scheme by which Local Governments were required to take over Rs. 1,20,00,000 of imperial expenditure and then raise revenue by local taxation to meet it. The heads of charges proposed to be transferred for the purpose were Education, Police, Jails and Public Works, to be met out of the revenue from license tax, house tax, octroi and a succession duty.[1] He desired that the Local Governments should determine their own expenditure, so far as it concerned merely local objects and that they should provide "the ways and means for themselves."[2]

Howsoever laudable the spirit behind the proposal might have been, it could not secure the approval of the Local Governments, as it fell far short of their expectations and was considered to be less liberal than the plan of Mr. Laing.[3]

[1] Circular Letter (Finance) to Local Governments 21 Feb. 1866.

[2] Financial statement 1867-8.

[3] Bengal Government replied that Provincial taxation should be had recourse to not for the relief of Imperial finance but for the internal development of the country. (Letter dated 8 March 1866). The N. W. P. Government thought that the distribution of imperial charges was not fair and did not favour transfer of imperial charges to local account unless the local liability was clearly established and admitted (Letter dated 8th March, 1866).

Mr. Massey submitted a modified scheme in January 1867 for the transfer to Local Governments of a few heads of charge exclusively of a local character amounting in the aggregate to Rs. 80,00,000, accompanied by a license tax. That was assented to as an experimental measure but was postponed on account of the state of the finances[1]. A larger scheme, however, was soon developed in a Note by Colonel R. Strachey, and was placed before the Government of India for consideration by the Financial Member. "The main object" of this revised project "was to limit the expenditure under several heads, specially under the control of the Local Governments which exhibited a constant tendency to increase owing to the Government of India being practically unable to resist the demands or control the expenditure administered by the Local Governments. This was to be attained by creating a sense of financial responsibility in the Local Governments. The method proposed was to make over to the control of the Local Governments certain heads of charge, which were at first to be Jails, Registration, Stationery and Printing, a portion of Police, Education, Medical

Bombay first compared it with that of Mr. Laing's project, and concluded that where the earlier one contemplated new local taxation for fresh expenditure, Mr. Massey proposed it in relief of existing Imperial expenditure. (Letter dated 25 November, 1866) Madras Government thought the plan was not practicable (Letter 20 March, 1866).

[1] Mr. Massey's Minute, 7 September 1867.

and Miscellaneous, and certain Public Works charges, together with the charges of collection of the revenues to be transferred. To meet these charges revenues under the following heads were to be transferred—Law and Justice, Police, Education, Miscellaneous and Public Works, and a share of Land Revenue, Income Tax and License Tax. The revenue and expenditure to be transferred were intended to be nearly equal in amount at the time of transfer; and the amount of revenue transferred was to be a final adjustment of the claims of the Local Governments for the transferred charges, any increase of charge was to be met by the Local Government either by retrenchment under some other head, by increase of the transferred revenue, or from local resources."[1]

The intention of Colonel Strachey was to place "the entire responsibility of managing the local revenues and expenditure" on the Local Governments[2]. He contemplated a change "of a much more organic character" as compared to the earlier proposals which transferred simply the local charges to the Local Governments for the relief of the central exchequer. That he even envisaged the eventual establishment of a modified form of federation in India seems likely from the following extract from his note:

"The end to be aimed at by the Government of India should be to divest itself of all

[1] Finlay. Provl. Financial Arrangements, p. 7.
[2] Note by Col. Strachey, 17 August 1867. (Extracts in Finlay).

detailed concern with all those items of expenditure which pertain to the branches of the administration, the details of which it cannot, in fact, control. Thus I should conceive that the financial position of the central authority should by degrees be brought to assimilate generally to that of the United States Central Government; though of course a power of supervision and control of a general nature must continue to be exercised over the finances of the separate local Administrations which has no existence in the case of America."[1]

The scheme was thoroughly discussed in the Governor General's Council. Mr. Maine welcomed it as a means of checking the extravagance of the Provincial Governments, and of applying brakes to the warlike propensities of the Central Government.[2] Sir William Mansfiled gave his approval also as the scheme by making "the Local Governments partners in the great joint stock of Indian Finances" would generate motives for economy in them.[3] It was supported by other members also, but the Viceroy and Sir Henry Durand opposed it. On being circulated to the Provincial Governments it was cordially approved by all the provinces except Madras as a step in the right direction. "The Government of Madras regarded the proposal as of too partial

[1] Strachey's Note 17 August 1867. (Finlay).
[2] Maine's Minute, 13 September 1867.
[3] Minute by Mansfield, 17 October 1867.

and inconclusive a character to justify a disturbance of the existing system of financial administration.[1] The Board of Revenue there and Mr. Arbuthnot, then a member of the Executive Council, were for more complete decentralisation, such as might leave the residue of the revenues of the province at the disposal of the Local Government after deducting the annual contribution to the Government of India for central services.[2] In England also the response was favourable, and the Secretary of State for India as well as some members of the House of Commons welcomed it.[3] But the opposition of Sir John Lawrence, Sir Henry Durand and Lord Napier prevented its acceptance.[4]

These proposals for leaving greater responsibility to the Provincial Governments, whether in respect of administrative or financial matters, had their origin in the desire to secure harmony in the relations between the Supreme and the subordinate Governments, to afford relief to the former, and were "advocated in the interests of economy, plenty and equity."[5] Decentralisation in some degree was the keynote of all the schemes, though a few would go to the length of establishing a sort of federation

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[1] Bannerji, p. 48. Thomas: Federal Finance in India, pp. 160—1.

[2] The Secretary of the Board of Revenue's letter to Local Government, dated 27th January 1868.

[3] Debate on East India Accounts, 12 August 1867, specially Northcote's Speech, Hansard Vol. 189. p. 1406.

[4] Finlay, para 8. See Thomas: Federal Finance, pp. 162—4 for their views.

[5] Ambedkar, Chapter II.

in India. The attack on them was made on the ground of practicability and expediency. Also, it was asserted by the other side that the evil of over-centralisation which had been so vociferously complained of, did not exist in fact.[1] And even if that was partially so, it was inevitable and essential. In one of his minutes, while discussing the proposed projects of financial decentralisation, Sir Henry Mortimer Durand gave clear expression to this view.[2] He regretted the lack of firmness in the Secretary of State in supporting the Government of India, and attributed to it the insubordination of the Government of Bombay as well as the complaints of interference which were so often heard in the Presidencies. He desired a strengthening of the authority of the Government of India so that its supervision might be real. He doubted the wisdom of delegating financial powers to the Local Governments for that without securing the ends so fondly cherished by the advocates of this view, would curtail the "power of the Supreme Government in the adaptation of expenditure to real requirements" to the extent that it would be "less and less able to meet great emergencies" and "the reality of its power will evaporate". That the measure would either repress the supposed warlike aggressiveness of the Government of India or would lead to harmonious

[1] See Notes by Muir, Dickens and Bayley and the Minutes of Durand and Lawrence. Public Proceedings 7 December 1867.

[2] Minute, dated 7 October 1867, Pub. Pro. 28 Feb. 1868 No. 154.

relations with the Presidency Governments was a vain hope.[1] He criticised the argument of the other section relating to the analogy "between American States expenditure and that of Indian Local Administration" by drawing attention to the fact that the federal system there was "based on the theory and practice of the control of the people or their representatives". "There is" he wrote, "not a shadow of such control in the case of Indian administrations".[2] For all these reasons he was opposed to the proposed schemes of administrative or financial decentralisation. No doubt, he favoured some relaxation in matters of detail, but only so far as it was consistent with the unity of control. These views prevailed at the time and the opposition of Sir John Lawrence led to the existing system remaining undisturbed.

[1] In reply to Mr. Maine's contention he wrote "If war, offensive or defensive, came upon us, no financial restraints, due to an arbitrary distribution of revenue, will make the difference of the fire of a single cartridge. War hangs on no such gossamer threads......War, moreover, is no longer in the discretion of the Governor General who is by Act of Parliament compelled previously to take the orders of the Home Government before an aggresive shot can be fired. If so solemn a provision of an Act of Parliament should ever fail to restrain a Governor General, most certainly the delusive manacle of a fixed ratio of a share of revenue for a minor Government must prove ludicrously inadequate to curb his martial ardour".

Also about the latter he wrote "The diminution of friction will be altogether ephemeral, if indeed there be any", (Minute 7 October 1867). Later events showed that Durand was right.

[2] Minute dated 7 October 1867.

Criticism of the various schemes.

Before describing the first definite measures towards provincial responsibility, it is necessary to examine the various schemes sketched above which aimed at removing the existing evils. One evil, as we have seen, was the jealousy of the Provincial Governments towards the controlling authority of the Government of India. Another was the uncertainty of the Indian finance owing to lack of economy and responsibility in the Local Governments. One remedy suggested was the separation of the budgets, the grant of the right of taxation to the Local Governments and the withdrawal of interference by the Government of India with their local concerns. Their aim was to establish a federation of provincial states ultimately. The very boldness of the project had a fascination for some, both at that time and later on. There is no doubt that it was a comprehensive scheme pregnant with great potentialities in the future. But it was wholly unsuited to the existing conditions. Theoretically, too, it was unsound. Federation presumes the existence of sovereign states which are accountable to no one outside. But the case was different in India in the sixties of the last century. The Parliament of England was the sovereign and all the governments in India, whether Central or Local, were responsible to it. There was no vestige of representative institutions in the provinces, and the executive was in no way responsible to the people there. Autonomous states could not be said to exist. As such, a fundamental condition of federation was

absent. In the absence of such popular control on the authority of the local executives, there were only two possibilities, either that the Secretary of State should maintain a close supervision on their activities to check any way-wardness, or that they should grow into irresponsible bureaucratic administrations. And as it would have been impossible for that distant authority in England to keep an efficient control over so many local administrations, the second and more unfortunate consequence was the more probable one. Secondly, howsoever necessary it might be to strengthen the Local Governments, the Government of India as yet could not afford to be weakened. Apart from military and political reasons, the very interest of uniform internal progress, good and just government, the blending of diverse sectional interests so as to create a sense of nationality, and the enforcement of due subordination of the administration to the wishes of the Parliament, all required a strong central government at the time. Thirdly, a clear demarcation of the functions of the Central and the Provincial Governments was difficult at that stage. Theoretically a division on the lines of Chesney's suggestion could be made, but in the existing immaturity of Indian administration, such allocation was bound to be imperfect and overlapping, and such defects would have caused conflicts more serious than before. Moreover, in the undeveloped state of many Local Administrations, the Government of India could not relinquish its closer control over them; and if they were allowed to hang on the

Central Government, the projected federation would have been an anomaly, for the federal government should have been both a local as well as a central government simultaneously. Finally, so soon after the Mutiny when the situation was still uncertain both inside the country and beyond the frontier, the Government of India could not agree to any legal and permanent partition of the revenues and expenditure of India which might make it difficult for the Central Government to concentrate all the resources of the state on the object at stake in an emergency. It was too early, therefore, for the establishment of the autonomous provincial administrations grouped in a federation.

The immediate problem was to concede greater liberty to the Local Governments in the management of the details of their administration, and to grant them a credit for their expenditure within which they could be left uncontrolled. This was in fact what they demanded. Also, there was pressing need for economy which it was felt could not be possible without entrusting some responsibility to the Local Governments. All these needs could be met by the proposals of Laing or Massey without having recourse to the extreme measure of divesting the Government of India of its financial and administrative supremacy. But the former of these provided only for an increase of taxation by resort to fresh local sources without affording any incentive for economy, the result of which would have naturally been an increase of burden on the people. The latter scheme in its revised form went so far

as to create a suspicion that a separation of revenue between the Central and the Provincial Governments was intended, hence it met with a determined opposition. These earlier projects overshot the mark. What was needed at this stage was the grant of a moderate measure of responsibility to the Local Governments which would give them a motive for adjusting their growing expenses within the available means. Also that they should be given a restricted power of raising local taxes to meet local expenditure and thus give relief to the Central exchequer.

Lord Mayo's Financial Reform.

When Lord Mayo assumed the Governor Generalship, the controversy was over, but not so the financial trouble. He had before him the prospect of a huge deficit, to meet which he adopted "the unusual procedure of addition to taxation, in the midst of the fiscal year."[1] Also the Local Governments were asked to make efforts to reduce expenditure without affecting efficiency.[2] The Viceroy ruled that the Budget grants must be regarded as final.[3] But even then the outlook was gloomy. Lord Mayo realised that a stage of financial disorganisation had been reached which required radical change. Analysing the causes of the existing situation he came to the conclusion that

[1] Ambedkar, p. 53.

[2] Circular letter to Local Governments (Financial Pro. No. 34, 13 May 1869). Hunter: Mayo, Vol. II, pp. 27-28.

[3] Hunter: Mayo, Vol. II, pp. 28-30, Personal note by Mayo, 21 July 1869.

the greatest necessity of the time was to make the Local Governments responsible for a part of the public expenditure, and to this purpose he directed his efforts.[1]

The first hint of the coming changes was given to the Provincial Governments in February 1870 when some of them were told that the reduction of the grant for roads from Rs. 1,236,000 to Rs. 850,000 was not a temporary measure but part of a settled policy, and so they might provide themselves from local sources with the "funds for the purpose of local roads, which could no longer be constructed from imperial grants."[2] Meanwhile the opposition of a section of the people had made the continuance of the Income Tax undesirable, for which reason the Government of India had to devise means to make good the loss accruing thereby. A discussion, which ultimately shaped Lord Mayo's measures, started in June 1870, and like the previous ones was "generated by financial necessities."[3] Sir Richard Temple pointed out the need for finding ten million rupees and "suggested that some heads of expenditure should be removed from the Imperial budget and made over to the Local Governments, who would be left to meet the funds by local taxation."[4] While

[1] Hunter, II pp. 40-41.

[2] H.D. Circular 21 Feb. 1870 ; Finlay, para 9.

[3] Finlay, para 11.

[4] He proposed Jails, Education, Roads and Police, four heads for the purpose. Minute, 23 June 1870; Finaly, para 11.

agreeing with the principle of the proposal, Strachey wanted the "responsibility and control of the Local Governments, as regards the details of their expenditure" to be increased. He was convinced that if "the Local Governments were freed from the trammels of the present irrational and irritating, and most extravagant system of financial control" there would be every desire on their part "to cooperate with the Government of India in the enforcement of a reasonable economy.[1] Lord Mayo considered the plan as conducive to economy, "to the avoidance of much administrative difficulty," and as leading to the institution "in various parts of the Empire of something in the shape of Self-Government" which "will eventually tend to associate more and more of the Natives of this country with ourselves in the conduct of public affairs."[2]

He detailed his scheme according to which, to meet a deficit of 1½ million, one million was to be thrown on local resources by making over to the control of the Local Governments the charges under Jail, Education, Roads, Civil Buildings and Police. To meet the expenditure on these heads amounting to Rs. 4,514,000 he "proposed to transfer the excise receipts of over two millions and a lump assignment of Rs. 1,500,000, leaving the Local Governments to find the remaining million." The Viceroy desired,

[1] Strachey's Minute 15 July 1870; Finlay, extracts.

[2] Mayo's Minute July 1870; Finlay, extracts

nevertheless, to maintain stringent control on police administration, as well as to retain "control of a general character... over the whole levy of local taxation."[1]

The Viceroy's Council was agreeable to the scheme[2] and so it was referred to the Local Governments.[3] They were generally favourable to the proposals. But the Madras Government wanted the inclusion of more heads of expenditure in the arrangement so that the reductions made could be spread over more services.[4] By that means the Governor-in-Council believed the Local Governments would be entrusted with "larger powers of control and more definite responsibility in the management of the principal branches of expenditure." He suggested also the delegation of power to the Local

[1] Finlay, para 13.

[2] Sir H. B. Ellis approved of the scheme if there be no reduction in the assignment under these items. (Minute 22 July 1870). Finlay, para 14.

[3] Letters were despatched to Local Governments between 17 and 24 August 1870. The letter to Chief Commissioner of Oudh, No. 2933, 19 August 1870, and all letters were similar, gives a clear exposition of the proposals. (Public Proceedings, H. D 22 April 1871, No. 96-106)

Suggestion for transferring Excise Revenues was dropped and the Departmental receipts were to be made over. The assignment was to be exactly equal to the net grant for the services minus one million. Also the advantages to be derived from it were described.

[4] Proposed Land Revenue, Excise, Salt, Administration of Law and Justice, Medical Establishments, Ecclesiastical, Minor Departments. Miscellaneous and Public Works ordinary, to be transferred.

Governments to create new posts and grant salaries to a limit of Rs. 250 per mensem.[1] The Chief Commissioner of Central Provinces went to the length of proposing that all the revenues should be credited to the Local Governments out of which they should contribute for the upkeep of the Central Government.[2] The replies of the Local Governments being generally satisfactory, the scheme was incorporated in the Resolution issued on 14th December 1870.

The Resolution of 14 December 1870.

The Resolution began by assigning reasons for the contemplated change. It pointed out the inconvenience of the divorce of responsibility for ways and means from actual disbursement of the funds, which had in the past led to repeated conflicts and very often loss to public service. Then the dictum was laid down that "it is expedient that, as far as possible, the obligation to find the funds necessary for administrative improvement should rest upon the authority whose immediate duty it is to devise such measures." Hence the departments of Jails, Registration, Police, Education. Medical Services (except medical establishments), Printing, Roads, Miscellaneous Public Improvements, and Civil Buildings, which

1 Letter from Madras to Government of India, Fin. Dept. No. 398, 27 September 1870 (H. D. Public Pros. 29 Oct. 1870, Nos. 55-56).

2 Letter from C. P. to Government of India, Finance Department No. 2548-275, 20 September 1870 (Public H. D. Pros. April 22, 1871, No. 96-104).

were considered to be of a local character, were transferred to the control of the Local Governments, as the expenditure in them had shown a tendency to rise, and also because the Supreme Government did not either "understand fully the local requirements" or possess "the knowledge necessary to the successful development of local resources" to meet the growing charges in them. As the scheme had been adopted with a view to giving relief to the Imperial Exchequer, a fixed assignment less by a million than the budget provision for these heads in 1870-71 was made to the Local Governments, the balance to be provided either by retrenchment, re-distribution of expenditure or local taxation. The Local Governments were free to distribute the sum among the several departments at their discretion, and any savings made at the end of the year would not lapse to the Imperial revenues but would remain at their disposal. Separate budget estimates and accounts would be maintained for these services, which were to be known as "Provincial Services."

Certain conditions were imposed so as "to restrict the powers of the Local Governments within the limits assigned by the Secretary of State to the powers of the Supreme Government of India itself; and so prevent a Local Government from embarrassing its neighbours by capricious or injudicious innovations."[1] Otherwise the Local

[1] Hunter Vol. pp. 54-55
The financial control entrusted to the Local Government was subject to the following conditions :—

Governments were free to manage the administration and expenditure of the transferred services. It was hoped that "the additional powers of financial control" would "be accompanied by a corresponding increase of administrative responsibility." The Governor General in Council desired "to confine the interference of the Supreme Government in India in the administration of the "Provincial Services" to what is necessary for the discharge of that responsibility which the Viceroy in Council

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I. Without the previous sanction of the Government of India—

(1) No appointment could be created with a salary of more than Rs. 250 a month, and no addition could be made to the pay and allowances of any officer if they exceeded Rs. 250 a month.

(2) No class or grade of officers could be created or abolished or the pay of any class or grade of officers be raised.

(3) No addition could be made to the pay or allowances of any individual or class of officers, that would lead to increase in the emoluments of any public servants doing duty in the same province, whose pay would be charged to the Imperial revenues. The Government of India reserved the right to forbid alterations in rates of pay or allowances which, in its opinion would produce inconvenience in other provinces.

(4) No moneys could be removed from the public treasuries for investment.

II. The Rules of the Supreme Government in respect to leave, deputation and superannuation allowances should be observed.

III. Returns, accouuts and estimates should be submitted to the Supreme Government in such forms and at such terms, as might be prescribed. (Resolution No. 3334, dated 14 December 1870.)

owes to the Queen and her responsible advisers, and for the purpose of securing adherence to the financial conditions now prescribed, and to the general policy of the Government of India."

It was mentioned that the procedure of the departments of Jails, Registration and Police was "to a large extent governed by law", but there was no law on the subject of education. The policy of the Government, however, was "prescribed in despatches of the Secretary of State, the authority of which and of the rules sanctioned by the Government of India regarding grants-in-aid and other matters of general principle", would not be affected by the Resolution.

The Governor General in Council believed that the Resolution would "effect a wide change in Indian administration", that it would "produce greater care and economy", would introduce "an element of certainty into the fiscal system" and would "lead to more harmony in action and feeling between the Supreme and Provincial Governments." The most important advantage which he hoped for was the application of "local interest, supervision and care" to these subjects which would "afford opportunities for the development of self-government, for strengthening municipal institutions, and for the association of natives and Europeans to a greater extent in the administration of affairs". He also desired that the provincial financial statement should where possible be made before the local Legislative Council.

A copy of the Resolution was forwarded to the Secretary of State with the remark that it would "effect

a most salutary reform in Indian administration.[1] The Secretary of State approved the principles laid down by the Government of India, and desired the following objects to be kept in view in the administration of the transferred services; "to secure the greatest degree of economy consistent with efficiency, to provide for the growing demands arising out of improved administration without materially increasing the burden of the people, and as far as possible, to secure the general concurrence of the local communities in the measures taken on their behalf." He made it clear that the proposed arrangements were experimental and would, if necessary, be "subject to revision, either in principle or detail."[2] The scheme came into force in April 1871, and the budget for the year 1871-72 was framed accordingly. The scope and extent of the proposals were explained at a meeting of the Legislative Council of the Governor General.[3] It was the first concrete result of the discussions extending over more than twelve years, and became the basis for further developments in the direction of what is known as 'Provincial Responsibility.'

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[1] Government of India's Financial Despatch No. 265 of 14 December 1870.

[2] Financial Despatch from Secretary of State No. 5923, February 1871.

[3] See debate on Budget Estimate 1871.

CHAPTER IV

DECENTRALISATION IN ACTION 1870-1887.

Lord Mayo's Scheme: Its probable effects.

Lord Mayo's scheme for the delegation of financial authority to the Local Governments became the starting point for subsequent progress in that direction. For the next few years the policy of the Government of India was to extend the powers, both administrative and financial, of the Local Governments as far as possible within the existing legal and constitutional system. That such extension could not go far proved effectively that nothing short of a fundamental alteration in the very principles of government in India could permit any considerable relaxation in the central control. The intention of the measures adopted in 1870 and later, in respect of financial arrangements could not be the establishment of autonomous provincial governments. They were merely administrative measures designed to reduce the work of the Central Government and to minimise the chances of conflict with subordinate Governments.

The Resolution of 1870 transferred financial control over eight services to the Provincial Governments; subject to the conditions stated earlier, which prevented the Local Governments from creating or abolishing any superior appointments,

or any class or grade of officers, or from making any additions or alterations to the pay or allowances of officers that might affect the same class of officers in other provinces.[1] The Local Governments were not free to invest their money where they chose, and were subject to all budgetary rules and restrictions.[2] A lump sum was fixed for expenditure upon the tranferred departments, and they were given liberty to distribute it at their discretion among the different objects under those heads, though an estimate had to be submitted.[3] The Local Governments could not raise any taxes without the sanction of the Governor General in Council, could not increase the total charges on "Provincial Services" and could make no other substantial alterations.[4] The only extension, therefore, in their financial powers was the possibility of transferring the funds under one head to another within the limits of the consolidated allotment, without the previous formal sanction of the Government of India. Thus Sir Charles Wingfield was right in stating that "not much increase of independent control was given."[5]

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[1] Resolution (Finance) 14 December 1870, para 21. I; Financial Statement, 1871-72.

[2] Resolution 14 December 1870, para 21.

[3] Ibid, para 18 and evidence of Sir Charles Wingfield, Ex-Chief Commissioner of Oudh, before the Select Committee on Indian Finance, 1872. Q 2101.

[4] Sir John Strachey: Observations on some questions of Indian Finance, 1873. p. 23

[5] Evidence of Wingfield; Q 2102.

With regard to the entertainment of public establishments and the grant of allowances and salaries, Sir Richard Temple, while explaining the scope of the Resolution in his financial statement enunciated the principle that "the regulation of salaries, of rates of pay, even the lowest of allowances and pecuniary privileges, must remain with the Supreme Government." He held that "strictness in this respect is essential", and so a check by the Government of India was indispensable to prevent excessive differences between one province and another which would lead to financial embarrassment." The Supreme Government did not part "with any of those powers which are needed for the preservation of financial order throughout India."[1] No revenues, except the departmental receipts, were given to the Local Governments and thus what was conceded to them was only "control over certain allotted items of expenditure."[2] Control of a general character was retained by the Government of India over the levy of local taxation. A measure of so partial a character perhaps hardly deserves the high sounding title of a "Decentralisation Scheme", and we are informed by Strachey that the father of the scheme, Lord Mayo, always protested against this phrase. The Viceroy was "opposed to the very idea of federalisation", and "to him the maintenance of the authority of the Central Government was of vital

[1] Temple's Financial Statement 1871-72.

[2] Wingfield. Hansard Debates February 24, 1871, pp. 902-6.

importance."[1] There was to be no disintegration either of finances or of administration. The Government of India did not relax any control which it could usefully exercise. To a great extent thus, the Resolution systematised the practice which had developed recently and was in vogue at the time.

However, the implication is not that the reform was either unnecessary or profitless. It served the purpose for which it was adopted. While securing immediate relief to Imperial finances, it made for greater harmony and economy, generated by responsibility in public administration. Not only was the Government of India able to reduce its budget by a sum of Rs. 33,08,000 but it was also relieved of "all prospective charges beyond the reduced sum" granted to the Local Governments; and as the charges transferred were such as had shown a tendency to rise, the advantage to the Central Government was considerable. A hope was at the same time expressed that the projected system would "teach the people to take a practical share in provincial finance, and lead them up gradually towards a degree of local self-government."[2] The procedure envisaged was the presentation of the provincial financial statement to the provincial Legislative Council and the formation of local committees comprised of non-officials and officials, which would manage the expenditure on local objects like sanitation, roads etc.[3]

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[1] Strachey's Minute on Lord Mayo's Administration, p. 51. [2] Financial statement 1871-72.

[3] Resolution 14 December 1870, para 19; Lord Mayo's

The inclusion of the scheme for local taxation with the delegation of financial powers to the Provincial Governments made it essential to associate the non-official element with the Government for one important concern at this time was to raise taxes without creating discontent among the people. Some statsemen clearly realised the need of this step. Sir William Muir, who was then the Lieutenant Governor of the North Western Provinces, demanded a Legislative Council for his province, for, as he wrote, "if this Government is to be responsible for so large a local revenue, it should be armed with corresponding legislative power." He felt also that if the control by the Government of India were relaxed "over several departments especially involving questions of finance" control by a Legislative Council should be substituted.[1] Others in England also were of the same opinion.[2] Advanced Indian public opinion saw in the paragraph of the Resolution containing the pious hopes of the Viceroy the only redeeming feature of the proposal.[3]

Memorandum dated 2 June 1871 and discussion on Madras letter (Finance)No. 147 dated 15 April 1871. (Papers relating to the Constitution and Functions of the Indian Legislative Councils 1886, pp. 287-300).

[1] Letter from N.W.P. to Government of India No. 1284 A, 15 September 1870 (H.D. Public Pro. 22 Octobe 1870, No. 50).

[2] Sir Charles Wingfield, Sir Charles Trevelyan etc.

[3] Quarterly Journal of the Poona Sarvajanik Sabha. Vol. IV. No. 4, 1881, p. 5. Mr. Ranade wrote in 1893, "it is in this light that the highest moral interest attaches in the history of the development of provincial finance." Ranade: A Note on the Decentralisation of Provincial Finance, 1894.

But these hopes did not materialise. The provincial financial statement was not regularly made before the Councils even where they existed, and no effort was made to increase the number of such Councils or to extend the non-official element in them. Any control by the representatives of the people over finance was out of the question. The scheme contemplated promoting local self-government by strengthening municipal institutions. But it was a vain hope because the domination of the officials over these institutions failed to evoke the cooperation of the people. We cannot therefore pronounce a more favourable verdict upon the reform of 1870 than to describe it as "advantageous to the Imperial budget of British India."[1]

Drawbacks.

The scheme was not without serious drawbacks, and these were pointed out by the Local Governments and at the Parliamentary enquiry in 1872-3.[2] The first was that the assignment of Imperial revenue for provincial expenditure was based on the grants actually made in a year of financial stringency "when expenditure was low", and hence could not provide scope for the

[1] Temple: Financial Statement 1871-72.

[2] Madras letter (Finance) No. 398, dated 27 September 1870; North Western Provinces letter No 1284A, 15 September 1870 (Public Proceedings, October, 1870); Reports on the Plan of Assignments for Provincial Service introduced by Lord Mayo's Resolution of 14 December 1870, (1873) containing the views of the different Local Governments; Evidence before the Select Committee on Indian Finance 1872-3 specially of Massey, Trevelyan and Wingfield. Debate in the House of Commons dated 24 February 1871. (Hansard)

development of provincial services without recourse to fresh local taxation.[1] Secondly, the allotment of funds to the Local Governments was inequitable as it was not determined by the actual needs or resources of the various provinces, but was proportionate to the actual expenditure of the different governments.[2] Such a basis of allotment gave advantage to the clamorous governments in the past. It must be admitted, however, in fairness to the authors of the scheme that any attempt at equitable allocation of funds might have provoked so great a controversy that the whole project would have wrecked. Thirdly, objection was taken to the rigidity of the assignment, as offering no inducement to economy.[3] Further, Sir Charles Trevelyan feared that "no self-adjusting principle is provided between the services which have been transferred to the Local Governments, and those which have been retained by the Central Government or rather between the funds applicable to each." There might be a deficit in one and a

[1] Minute by Mr.Eden, Chief Commissioner of British Burma dated 23 March 1872. (Reports etc. p 15.)

[2] Madras letter No. 45 dated 9 January 1873 (Reports etc. p. 51); Lord Napier's Minute dated 3 May 1872 (Finlay, Extracts).

[3] The Punjab Government objected to fixed assignments and desired that the allotments from the Imperial revenue should be fluctuating (Letter No. 1542 of 3 December 1872). But North Western Provinces Government welcomed the arrangement as the appropriations for the provincial services would be secured against failure (N. W. P. Letter No. 2047A of 25 December 1872)

surplus in another. "That want of harmony, and want of mutual arrangement is a decisive objection.[1]"

This last criticism of the Ex-Finance Minister ignored an essential feature of the scheme which aimed at separating provincial services and restricting the liability of the Central Government for expenditure on them to a fixed sum, for which reason there was no need for any automatic adjustment between the transferred and the other departments. Finally, the provisions about raising local taxes by the Local Governments laid the scheme open to the charge of being burdensome to the people. The Government denied that local taxation had increased directly owing to the new scheme. But though it is very difficult to disprove that statement, it is a fact that substantial additions were made at the time to the local rates in Bombay and other provinces. Lord Mayo's Government was distinctly in favour of this method of raising revenue.[2] The local administrators tried to compensate for the reductions in the Imperial grant by new imposts, and thus that purpose of economy in expenditure for which the project was conceived was partly defeated.

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[1] Trevelyan's Evidence;, Q 856.

[2] £ 750000 per annum of fresh provincial taxation was imposed in various provinces (Financial Statement 1872-73). Sir John Strachey's statement seems quite reasonable; that there was no direct connection between fresh local taxation and the decentralisation scheme of 1870, and that Lord Mayo sanctioned local taxation to help the reduction of incometax as a lesser evil. (Observations on some questions of Indian Finance 1873. p.12) ; Evidence of Sir R. Strachey in 1872, Q. 6711; Hunter, Vol. II, p. 72.

Yet in spite of all these defects, the reform met with success, as it eliminated, for the time being, "occasions for conflict between the Supreme and the Local Governments."[1] The latter reported unqualified success of the scheme, which they said had effected harmony, efficiency and in some provinces such economy as had not been possible before.[2] There was, at the same time, more certainty in Imperial finances, and the Government of India was able to shift its annoying burden on to the shoulders of the Local Governments. Lord Mayo "secured the equilibrium of the finances, but the burden was merely readjusted, not removed."[3] It is no wonder then that the measure did not evoke great enthusiasm among the people of the country for they could see no good to

[1] Mr. Chapman, Financial Secretary to Government of India, after four years' experience in working this measure, writes as follows :— "The reform thus introduced has been thoroughly successful...it is now generally acknowledged that its effects have been to promote a good understanding between the Supreme and the Local Governments; to increase the interests of the latter Governments in their work; to enlarge their power to do good; and to relieve the Imperial ex-chequer from an old class of urgent demand. These results have been obtained without sacrifice of the authority and dignity of the Government of India, and without any tendency to financial disintegration." Hunter, Vol. II, p. 61; Bengal letter No. 5309 (revenue) dated 14 December 1872.

[2] Letters of the Local Governments in the Government selection entitled "Reports on the Plan of Assignments for Provl. Servises introduced by Lord Mayo." For a summary see Bannerji pp. 82-85.

[3] Hunter, Vol. II, p. 73.

themselves. Nor could the federalists be zealous about it as the scheme was of too partial and imperfect a character, though some of them recognised that the beginning was in the right direction.

The Local Governments were given freedom only in respect of some details of administration. The general control by the Government of India remained intact, and the statement that the Governor General in Council would exercise it only in so far as was necessary for the discharge of his responsibility to the Queen and the Parliament, or for securing adherence to the general policy of the Government of India, affirmed this in clear terms.[1] In fact any measure howsoever trivial may involve the interposition of the Supreme Government under one or other of these two conditions. Nevertheless, in the existing constitution of British India the project, though narrow, commenced the process of solving the thorny question of the relations between the Supreme and the subordinate Governments.[2]

Directions in which the scheme could be extended.

Before the scheme could actually come into operation the Government of India added a few minor heads to the services already transferred, and made additions to the allotments

1 Resolution of 14 December 1870, para 25

2 Strachey wrote "The object at which the Government aimed in introducing the new system of provincial assignments was...to make better practical arrangements for meeting actually existing charges." (Minute 27 July 1872)

as well.[1] Its working however revealed the direction in which future extension was possible. In their reports on the results of the operations of 1871, the Local Governments dwelt on this subject. They asked that more departments might be transferred to their control and that a share of Imperial revenues might be assigned to them instead of a lump sum. The Madras Government had given a list of such subjects in 1870 which included all matters of provincial administration.[2] The Lieutenant Governor of the North Western Provinces was "of opinion that all the services provincially administered might advantageously be treated upon the same principle," and especially desired the transfer of Forest and Irrigation[3].

[1] Resolution of the Government of India. Fin. Dept. 20 March 1871.

Transferred the charge for (1) Petty construction and Repair of Civil Buildings, except the Opium Department in Bengal and the Salt Department outside it, and (2) all medical services other than the consolidated pay of medical officers. Also all travelling allowances and the charges for (a) salaries of medical officers of medical colleges, central jails and lunatic asylums at the Presidency Towns (b) extra allowances to medical officers for the medical charge of lunatic asylums in the mufassil, and for the executive charge of jails. (c) Sub Assistant Surgeons and apothecaries. employed in other than the civil medical charge of the Sudder Stations of Districts and all other subordinate medical establishments.

[2] Madras letter Fin. Dept. No. 398 of 27 Sept. 1870 and No. 45 of 9 January 1873.

[3] N. W. P. Letters No. 2047A of 25 December 1872 and No. 764A of 11 May 1872.

The Bengal Government also recommended that Judicial, Revenue and Executive Services should be provincialised.[1] At the same time, some of the Local Governments felt that for the success of the measure some revenues should be transferred to the Local Governments. The Bengal Government suggested Income-Tax, Stamps and Court Fees for the purpose, as well as a percentage of the other revenues.[2] The Punjab Government desired one-sixth of all Imperial revenues collected in the province to be given to it as its share in place of a fixed annual assignment[3]. It was claimed that the fluctuating allotments would afford better means for local expenditure, and would obviate the need for local taxation. Also, the Government of India would gain thereby as the local officers would have an interest in increasing the output of all revenues, local as well as Imperial. The Local Governments hoped that the proposed arrangement would materially improve the scheme and would give them more scope for administrative freedom. They also complained of the illiberality of the restrictions on their financial and administrative powers and desired greater relaxation of administrative control by the Government of India. The conditions particularised in para 21 of the Resolution of 14 December 1870 and especially Rules 1 and 2 relating to the creation of new offices, it was

[1] Bengal Letter No. 5309 Rev. of 14 Dec. 1872
[2] Ibid
[3] Punjab Letter No. 125 of 16 Feb. 1871. Same demand was reiterated in Letter No, 1542 of 3 December 1872.

said, unnecessarily hampered the independent action of the Local Governments.

The lines for future development being thus indicated, Sir John Strachey formulated a plan in 1872 by which the principle of Lord Mayo's Resolution could be extended to the revenues as well.[1]

Extension 1877-1882.

But as there was no pressing financial necessity at the time, it was shelved and nothing was heard of it before 1877. The intervening years saw two severe famines, as well as the beginning of the period of fall in the exchange. Though the Government was able to pay its way by relegating expenditure on famine and unproductive public works to the loan account, it was clear that the finances were not in a sound condition.[2] There was need for making provision for famine expenditure and unproductive public works out of the ordinary revenues and so Lord Northbrook's Government decided to maintain for the future a considerable surplus of income over ordinary expenditure.[3] There were other demands too, especially for administrative improvements, and for the abolition of the import duty on cotton goods, promised by the Secretary of State; and these required strengthening of the revenues. Only three means were open by which the financial position could be bettered, namely, " fresh taxation, reduction of expenditure, or increased

[1] Strachey's Minute dated 27 July 1872; Finlay, para 28; Financial Statement 1877-78.
[2] Financial Statement 1875-76 and 1877-78.
[3] Financial Statement 1877-78.

productiveness of the existing sources of revenue, or a combination of these means." The Government of India was reluctant to resort to the first as a general Imperial taxation provoked discontent, and the second was not possible for the increase in military expenditure was not within the control of the Government of India. The only alternative left was the third. The administration of revenues and civil expenditure was carried on by the Provincial Governments, which alone, it was hoped, by greater energy, better supervision and closer interest could make existing revenues yield more.[1]

Sir John Strachey, then the Financial Member, believed that such good administration would be possible only when the Local Governments and their officers "have a direct, and so to speak, a personal interest in efficient management," that is, when they would feel that "good administration of the excise and stamps and other branches of revenue will give to them, and not only to the Government of India, increased income and increased means of carrying out the improvements which they have at heart." He was confident that "the local authorities take little interest in looking after the financial affairs of that abstraction, the Supreme Government." For these reasons the Governor General in Council decided to apply the principle of decentralisation to selected items of revenue as well.[2]

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[1] Financial Statement, 1877-78

[2] See Financial Statement 1877-78 for the details and principles of the new settlement.

Owing to the famine in Madras and Bombay, it was not thought proper to make any fresh settlement with them immediately. But arrangements were made in 1877 with the Governments of Oudh, North Western Provinces and Bengal by which some heads of revenue (excise, stamps, law and justice) and the entire provincial expenditure were made over to them after reserving "as Imperial only those subjects which for some particular reason it was inconvenient to transfer to provincial management and responsibility."[1] The transferred revenues and expenditure were calculated on the figures of the year 1877-78. A retrenchment from total expenditure in each case was secured. But as the "normal estimated yield of the ceded revenues fell short of the requirements," an "adjusting assignment" for each province was fixed for a limited period out of the reserved Imperial revenues. If the Local Government spent less than that sum in a year, the difference was to be added to its balance, while any increase above that sum was to be deducted from that balance. The settlement with the North Western Provinces was for two years, but with Bengal for five years, after which it was to be revised so as to enable the Supreme Government to share in any growth of revenues during the period. It was extended also to the other Local Governments

[1] Letter to Bengal No. 1899 Fin, 29 March 1877. Land revenue, Administration, Law and Justice and Miscellaneous were the additional heads of expenditure which were transferred to N. W. P. Government. (Finlay, para 2.)

except Madras, which refused to have it if it involved retrenchment or advantage to the Central Government.[1]

The Governments of Burma and Assam entered into the new scheme in 1879. In their case no retrenchment was made and the settlement was for five years. But "the new feature in these two contracts was that the equilibrium between the provincial revenue and expenditure was secured, not by the grant of a lump assignment to make good the difference between the expenditure and revenue made provincial, but by the grant of a share in the reserved Imperial revenues." In other respects they were similar to the others.[2] At the same time some Local Governments were made responsible for their productive public works, the money for which was advanced by the Central Government, but the interest and expenses were to be charged to the former.[3]

The agreements made in 1877 were to terminate in March 1882. The Local Governments had availed themselves freely of their resources under the new system of finance. but still these were found insufficient in many cases, and demands were made on the Government of India for separate consideration.[4] In order to "secure an early

[1] Finlay, para 36.

[2] Finaly, para 38; Resolution (Finance) No. 1488 dated 26 March 1879.

[3] Finlay, para 37; Financial Statement 1878-1879, Finance Committee Report 1886, Vol. I, p. 12.

[4] Financial Statement 1882-83.

establishment of the decentralisation system in all the provinces on a uniform and extended basis," the Government of India decided to have a general revision in 1882.[1] The Resolutions of 30 September 1881 and 17 January 1882 explained the main features of the new general contract. It was agreed that the principle of the settlement with Burma should be applied to the whole of India.[2] The entire field of the revenues and expenditure of India was classified in three divisions, wholly Imperial wholly Provincial, and Joint or Divided. Certain heads of revenue and expenditure, "as few in number as possible, wholly or with minute local exceptions only, were reserved as Imperial; others were divided in proportions for the most part equal between Imperial and Provincial, the rest were wholly, or with minute local exceptions only, made Provincial." The balance of revenues and charges which were thus made over to the Local Governments, being against them, this was rectified in each case by the grant of a fixed percentage on its Land Revenue (otherwise reserved as Imperial), except in the case of Burma where the rice export duty and salt revenue were drawn upon for the purpose. Consolidated allotments to secure equilibrium in the provincial budgets were discontinued, and thus greater elasticity was provided in them. The contract was made for five years, at the end of which period it was to be subject "to any revision which the wants of Imperial revenues

1 Resolution No. 3353, 30 Sept. 1881.

2 Resolution, 30 Sept. 1881

or the needs of other provinces might render expedient."[1] Also the relations of the Supreme and Local Governments "in respect to war and famine" were clearly defined. It was laid down that in case of famine, the Local Government could not expect any assistance from the Imperial revenues unless its own available resources were completely exhausted. In the case of war, the Government of India declared "that it will make no demand on the Provincial Governments except in the case of disaster so abnormal as to exhaust the Imperial reserves and resources, and to necessitate the suspension of the entire machinery of public improvement throughout the Empire."[2]

By these means a sort of finality was given to the contracts for a limited period. The creation of the head "Divided" was a new feature in these arrangements. The quinquennial contracts thus established remained the basis of financial relations between the Central and the Local Governments

[1] Finlay, para 41; Memorandum on the Financial Administration of British India under Lord Ripon 1884 (official Report) p. 18; Financial Statement 1882-3, paras, 38-42.

[2] Resolution (Finance) No.3353, 30 September 1881, paras 6-8.

For Famine relief it was laid down that provincial ordinary revenues must be exhausted, 2/3 of the balance be drawn upon and 1/4 of the margin of provincialised income be spent, before the Government of India would step in (para 8).

Regarding war, the Secretary of State desired to modify it to a necessity when no course but of extra-taxation which may be inexpedient was left (Despatch 29 July 1886).

until the beginning of the next century. The first revision was made in 1887, when owing to the needs of the Supreme Government, some changes were effected in the "Divided Head" so as to increase its share of the revenues.[1] On the recommendation of the Finance Committee,[2] appointed for the purpose, some retrenchments were secured in provincial expenditure which were taken into account in making the contract.[3]

This expansion of provincial finance was accompanied by a certain limitation of the powers of the Local Governments. In addition to the principal conditions of 1870, more were added in 1877 which had the effect of restricting their independent action and of securing proper supervision and control by the Government of India.[4] The new Rules, besides reaffirming the previous checks relating to creation of posts etc., imposed fresh obligations respecting provincial estimates and balances. Local Governments were forbidden to exhaust their balances in the Imperial treasury or to budget beyond the funds at their disposal.[5] They were bound to observe all the standing orders and rules of the Supreme

[1] Financial statement 1887-8.

[2] Report of the Finance Committee 1886, 2 Vols. appointed by the Resolution of 10 February 1886.

[3] Summary of the Principal Measures during the Viceroyalty of Lord Dufferin in the Department of Finance and Commerce, Vol. IV. p. 33.

[4] Resolution No. 1709,22 March 1877; Financial Statement 1877-78.

[5] Resolution 22 March 1877, Rule VIII.

Government gradually embodied in financial codes such as the Civil Account Code and Civil Service Regulations.[1] Further they were required to submit their annual accounts and estimates to the Supreme Government.[2] Nor during the year were they allowed "at their own discretion and without communication to the Government of India to spend even from balances at their credit, more than the total amount" included in the estimates.[3] The reason given for this restriction was that the Government of India being responsible for ways and means, must have intimation of any proposed withdrawals from the treasury. Local Governments were not competent to order the removal of any funds whether local or provincial, from the treasury for investment elsewhere, without previous sanction of the Government of India,[4] for the latter had not relinquished its "absolute and

[1] Resolution, 22 March, 1877; Rule III

[2] Ibid, Rule XI. About these Rules Mr. Ranade writes, "the whole drift of these rules appears clearly to strengthen the control and increase the subordination of the Local Governments to the Supreme Government, and to that extent the spirit of these rules contrasts strikingly with those of 1871." This he ascribes to Sir John Strachey being at the head of the Finance Department. Mr. Ranade's remark about the increase of control is not an exaggeration. Ranade: Note on Decentralisation.

[3] Resolution, Finance, No. 2857 of 12 September 1878. This principle applied with equal force to ordinary current expenditure and to expenditure from provincial revenue and balances.

[4] Resolution No. 2055 Finl. Dept. 25 July 1877. Later, exceptions: Dispensary Funds, Municipal and Post Funds or Trust and Endowment Funds (Resolution No. 680 4 Feb. 1878 and No. 1805 of 25 July 1878).

unconditional control over all money in the public treasury."[1] In the case of productive public works too which had now been made over to "the use and responsibiltiy" of the Local Governments, conditions were laid down which controlled their action. The Government of India reserved to itself the right of fixing the yearly grants for capital outlay on provincial works in each province and required a preliminary report "indicating clearly the scope of the project if the estimated cost was below 10 lakhs of rupees, and detailed plans and estimates if beyond that sum," for sanction and final orders. The inspection of such works during their construction was to be made by Imperial officers.[2] The Local Governments were not given borrowing powers but they could issue debentures for provincial works, under the rules made by the Supreme Government.[3]

A critique of the Reforms

With Lord Mayo's scheme as developed by Strachey and Baring may be said to have commenced the system of "Provincial Finance." What was the nature of that system? Were the Provincial Governments given any independent financial organisation such as is associated with sovereign states, or were they still "the agents of the Government of India?" Were any beginnings made

[1] Rule (8), Resolution, 22 March 1877.

[2] Rules issued by Government of India in P.W.D. on 20 March 1878. (Selection of Decentralisation Papers LVIII, pp. 176-184)

[3] Resolution, Fin. Dept, No. 1868 of 15 March 1878.

towards federal finance or was it still a centralised system? What effect did these changes have on the administrative practice or constitutional position of the Government of India? The answer to these questions will reveal the underlying principles of the scheme and show the character of the authority exercised by the Local Governments.

It may be pointed out that common belief as well as Provincial Governments' estimate of their position was very different from the actual facts. Dr. Ambedkar has rightly criticised the popular notion "that the Indian system was one of separation of sources and contributions from the yield." To this conclusion he was led by the absence of change in the legal relationship of the Government of India to the Provincial Governments, the limited character of the financial discretion allowed them, and the periodical revision of the contracts in the interest of the central finance.[1] The Provincial Governments were in fact from time to time reminded of their actual position by the Supreme Government, in a manner which left no doubt as to the object of the measures adopted.[2] That there was no separation of the finances is evident from the alteration in the form of accounts

[1] Ambedkar: The Evolution of Provincial Finance, pp. 152-161.

[2] Financial Statement 1877-78: Resolution (Finance) No. 318, 17 January 1882 para 7: Finlay, para 12 and extracts XX para 8-11 and XXIV para 2; Financial Statement 1887-88, paras 22, 23, 26, 39 and 43; Also letter (Finance) No. 284 dated 14 January 1882 to the Government of Bengal, etc.

made in 1877, when the provincial details of revenue and expenditure, separated from Imperial accounts and estimates in 1871, were reincorporated with the latter, so as to "enable the Government of India to control the revenue and expenditure, and the public to criticise the accounts more effectually than heretofore."[1] The Government of India did not accept the right of the Local Governments to the uninterrupted use of the revenues assigned to them under the settlement, but regarded that only as a "surrender (of revenue) for a period to the Provincial Governments in order to enable them to meet whatever expenditure is essential to the conduct of administration", after providing for the needs of the Central Government itself.[2] It did not "give up its prior claims upon the revenues" of the country owing to its responsibility for the important all-India services. It could not do otherwise as long as "the finances of the Supreme and of the several Local Governments have to be administered as part of a single system."[3]

Nor was any change involved in the constitutional position. The Act of 1833 was still in force, and

[1] Financial Statement 1877-78.

[2] Financial Resolution No. 458, 28 January 1887, "The Government of India, therefore, while it continues to be responsible for these charges (Defence Dept. and Home Charges) cannot give up its prior claims upon the revenues from which they are to be met, and in framing the Provincial Contracts, the Government of India sets apart, for a specified period only, so much of its revenues as it can reasonably expect to spare, to meet the civil expenditure placed under provincial control" (para. 3)

[3] Financial Resloution, 28 January 1887.

the Government of India made it clear in 1878 that because of the new procedure it "has not contemplated the abrogation of the constitutional responsibility imposed upon it, of exercising a general executive supervision over the proceedings of the Local Governments in the collection of the revenue and the administration of the services entrusted to their quasi-independent care."[1] The responsibility of the Government of India to the Secretary of State made it impossible, as was stated in 1887, for the former "to give up altogether its duty of general financial control."[2] The Secretary of State at this time was exercising a close control, and so it was difficult for the Government of India, even if it wished, to allow greater liberty to the Local Governments except in minor details.

From time to time the Government of India had been compelled by war, famine or unfavourable exchange to demand retrenchment from the Local Governments even in provincial services.[3] The Secretary of State was also insisting that expenditure from provincial revenues be kept within strict limits.

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[1] Financial Resolution, No. 1514, 8 July 1878.

[2] Financial Resolution, 28 January 1887.

"The Government of India cannot concede to Local Governments greater power than it itself possesses...and absolute administrative independence is by no means the object of the provincial system." para 14.

[3] Besieds the contribution taken during the Afghan War, which was remitted, contribution was taken from the Local Governments during the Viceroyalty of Lord Dufferin. (Summary of the Principal Measures of the Viceroyalty of Lord Dufferin in the Department of Finance and Commerce. Vol. IV, pp. 10, 28 & 32)

During the Afghan War the Supreme Government had been constrained to levy a contribution on provincial funds, and though it was remitted afterwards, it is quite evident that the revenues of India were undivided and the Central Government had the first claim on them. No legal separation of income or expenditure had been effected between the two, and the Government of India with the assent of the Secretary of State could alter or repeal the arrangement devised in 1870 and later. Such a system could by no means be called a federal system of finance.

Judging from the frequent statements by the Government of India and the actual practice during the period, we may conclude that the "Provincial Finance" scheme secured the delegation of limited financial powers only for the purpose of economy and retrenchment. "The basis of that system is financial," wrote the Government of India, "the Local Governments being placed, in respect of their provincial revenues under certain pecuniary liabilities, while their administrative powers in relation to public expenditure have been extended."[1]

The need of the Government of India for further resources provided the main incentive; and that remained the chief consideration both in the initiation as well as in the development of the project. But harmony in their relations and economy in provincial expenditure were concomitant advantages expected. A subsidiary result, the

[1] Resolution (Finance) No. 1514 dated 8 July 1878.

importance of which was slow to be realised, was that the scheme provided the only means by which within the existing system of government, the association of Indians with the administration could be achieved. The development of local self-government was intimately connected with it.[1] No doubt, no radical change was possible in the relations between the Central and the Provincial Governments, but that was not the object in view. The purpose was not to create autonomous Local Governments; what was required was a relaxation of such control, or delegation of such authority, financial and administrative, as might smooth the process of administration without disturbing the supremacy of the Government of India.[2]

Control exercised by the Government of India.

An extension of the administrative powers of the Local Governments was expected to result from Lord Mayo's financial scheme. It was hoped that the detailed interference of the Government of India in provincial matters would be lessened by increasing the authority of the Local

[1] Resolutions (Finance) 31 August 1864 and 30 September 1881.

[2] Mr. Ranade holds that in 1877 there was a clear "revulsion of feeling on the part of the Government of India in respect of the anticipated benefits of the policy of financial decentralisation. The whole scheme was reduced to a mere departmental arrangement for avoiding interference in the details of local administration." (Note on Decentralisation). There is no cause to believe that there was any "revulsion of feeling", for the scheme from its very inception had been merely a departmental arrangement.

Governments to sanction expenditure. The limit for sanctioning the creation of new posts or for grants of salaries was fixed at Rupees 250 a month, and in respect of public works Local Governments were free to authorise ordinary works within their budget estimate, and productive public works if not costing more than Rupees 10 lakhs in each case.[1] The margin was fairly calculated to lessen the chances of conflict between the two authorities, and afford relief to the overworked departments of the Central Government.

To some extent these expectations were realised. But the change was in fact quantitative not qualitative. There was reduction in the number of references to the Government of India on petty items of detail which did not involve any question of principle or policy. These references, however, related to higher appointments and covered practically the same subjects as before 1870. No relaxation of the general superintendence, direction and control was either possible or intended. The Government of India issued from time to time, as previously, Resolutions sketching the lines of uniform administrative improvement, affecting

Als., Thomes: Fedral Finance in India, p. 230. for criticism of the new system. He considers its spirit to be generous and liberal; but no substantial increase in the authority of the Local Governments was possible.

[1] Rules relating to Productive Public Works issued on 20 March 1878, Rule VIII.

All projects not exceeding rupees 10 lakhs or 12½ lakhs including establishments, tools etc, would be dealt with finally by the Local Governments

Also Resolution No. 2009 (Finance) 23 March 1878.

almost all the departments. The proceedings of the Local Governments and their reports of administration came regularly under review and were commented upon by the Governor General in Council. His interference in the details of administration to secure their harmony with general principles was still a reality. And in the exercise of his superintending authority he could call for any reports and explanations from the Local Governments. No doubt, there was a tendency to allow as much discretion to them as practicable, and to interfere with their judgment as little as possible. But, even then such occasions were neither few nor far between.

Administrative Control

In the department of education, for example, on its transfer to the provincial budgets, though the Government of India no longer fixed the amounts to be appropriated still it regulated the policy as in the case of Muhammadan education, or of grants-in-aid to primary or to European schools.[1] Particularly as regards primary schools, for instance, the Government of India stated in a Resolution that while funds for elementary education should come from the local rates, the government should also contribute liberally for the purpose. But it laid down the rule that the state contribution should be not more than one-half of the aggregate contribution from all other sources.[2] The

[1] Moral and Material Progress Report. 1873-74, p. 25. Also Resolutions 1873 and 1885. [2] Resolutions H. D. Education No. 59/67 dated 11 February 1871.

Government of Madras considered the resolution contrary to the spirit of the new financial scheme and embarrassing to the Local Government.[1] The Government of India drew attention to the paras 25 and 26 of the Resolution of 14 December 1870 and stated that "in respect of the enforcement of principles of Imperial policy, the Government of India must continue to exercise the same control as heretofore in those departments the financial management of which has been left to the Local Governments, and as regards education especially."[2] A similar reply had been sent to the Bombay Government.[3] Subsequent to the report of the Education Commission of 1884, the Supreme Government outlined its policy[4] and asked for the co-operation of the Local Governments in carrying it out, even if they differed from parts of it.[5] Financial references respecting salaries and posts

[1] Letter from Madras to Government of India No. 150, 2 June 1871.

[2] Letter from the Government of India to Madras. No. 273 H. D. Education, 4 July 1871.

[3] Letter to Bombay from the Government of India No. 243 H. D. Education, 20 June 1871.

[4] Resolution H. D. Education, 23 October 1884.

[5] Letter to Local Governments No. 323, 28 October 1884.

Wrote to Madras : "H. E. in Council trust that full effect will be given to those orders and instructions ; and he feels sure that the Madras Government will endeavour to meet the views of the Supreme Government in those few points of difference to which the Governor General in Council is disposed to attach importance." (Letter No. 323A)

did continue; and the Government of India utilised them for reviewing the working of the department and pointing out defects, or for securing uniformity in the pay and the conditions of service.[1] But such control was not close and the Local Governments had ample liberty to carry on administration within the framework of the policy prescribed by the Secretary of State.[2]

Similarly, in the field of local self-government, interference was not great. The policy of the Government of India was to give as much liberty to the local bodies as was compatible with the general interests of the state. However, the largest number of references during this period relates to the octroi duties and other terminal tolls, for the Government of India feared that such duties might develop into transit duties on the general trade of the country.[3] In respect of loans raised by

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[1] Objection was taken to the difference in the pay of the Professors in the two colleges of the Madras Presidency.

[2] The Government of India had attempted occasionally to secure uniformity in respect of such matters of routine as the appointment of the Text Book Committees and the duration of the vacations in the schools and had issued orders to that effect. But the Local Governments opposed the intended interference.

Resolution H. D. Edn. No. 143/52 dated 99 March 1877 and Resolution No. 10/394-405 dated 14 July 1882 respectively.

[3] Letters to N. W. P., C. P., Punjab and Oudh, Nos. 15-18, 29 August 1871; Letter N. W. P. No. 73, 19 September 1873; Letter to Punjab No. 5, 12 January 1874; Letter to Bombay No. 39, 31 March 1877; Proceedings Municipalities 1871-77 etc.

municipalities also, the sanction of the Government of India was necessary.[1] Lord Ripon extended the scope of local self-government by introducing a larger non-official element and substituted the method of election for nomination; and asked the Local Governments to put these principles into practice.[2]

But the same cannot be said about the main branches of administration dealing with law and order. The Government of India was anxious to improve the working of the jails so as to lessen the rate of mortality among convicts and avoid public criticism. Conferences and committees of enquiry were set up from time to time, and their recommendations were urged on the Local

[1] The powers of the Local Governments under the Local Public Works Loan Act 1871 (repealed by Local Authorities Loan Act 1879) were regulated by rules published under the Act by Notification No. 3761 of 18 October 1873 (superseded by Not. No. 3745, 8 November 1879 and No. 591, 31 January 1882). By Resolution No. 2448 (Finance) 28 August 1879 the Local Governments were authorised to make small loans out of a sum placed at their disposal. But for larger loans sanction had to be taken after 1877 and for all loans before that year. For such sanctions see Municipalities Proceedings of various years, as for example Nos. 3-8, July 1872; No. 2, August 1872, No. 2, September 1872; No. 12, May 1877. With the issue of Resolution (Finance) No. 2206, 28 July 1877 regulating the grant of loans, references diminished. Still sanction was required for loans of large amounts. See Proceedings Municipalities of various years.

[2] Resolutions 30 September 1881 and 18 May 1882. Also correspondence relating to the same with Bombay Government. Bombay letter No. 4141 dated 27th October 1882 and reply to it No. 1774, 6 Nov. 1882: also letter to Bombay No. 2047 (Public) 20 December 1882; Wolf : Life of Lord Ripon, pp. 93-98.

Governments for adoption.[1] General instructions on various subjects of jail discipline and organisation were accordingly issued. A greater vigilance is noticeable in respect of the application of the rules. When three cases of lax discipline and negligence were reported from the Punjab, a general resolution was issued enjoining strict adherence to the law.[2] The Government of Madras had passed orders regarding convict labour which were thought inconsistent with the maintenance of caste and the Government of India, on a review of its proceedings requested the Governor in Council to reconsider the order, as it was against the recognised policy of the Government of India.[3] When for some years a rising mortality was noted in some jails in Bombay Presidency, the Supreme Government suggested sanitary measures and required the Local Governments to submit sanitary returns with their reports.[4] Later the Government of India gave more definite directions regarding the jail dietary and required closer supervision and a more effective inspection of the jails to check abuses.[5] Further,

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[1] Commissions of enquiry into jail management of 1864 and 1877.

[2] Resolution No. 30-1314 H. D. (Judicial) 24 July 1873.

[3] Letter to Madras Government No. 1149 Jdl. 8 July 1871.

[4] Letter to Bombay Government No. 1563 Jdl. 30 November 1878 and Resolution No, 25/1653 to 1665 H. D. Jdl. 26 Dec. 1878.

[5] Resolution H. D. Judicial No. 3/114-24 3 February 1882, and Resolution No. 28/757-1767, 12 December 1882.

when the manufacture of certain articles was started in the jails, the Government of India laid down regulations to prevent competition with private industry.[1] Its sanction was required for setting up power-driven machinery in the jails.[2] Articles suitable for manufacture in jails were catalogued and departure from the list required previous sanction of the Governor General in Council.[3] The subject of the remission of sentences also attracted attention. The Secretary of State desired uniformity in practice in all the provinces, and the Government of India prescribed general rules and required conformity to them.[4]

The supervision of the police administration was no less thorough, as it closely affected the well-being of the people. The Government of India insisted on full information being supplied to it "upon all cases which affect the working of an important branch of the general administration of the country." For instance, it asked the Government of Bengal to

[1] Resolution H. D. No. 20-1406-19, 22 September 1882. The Local Governments protested against it and the Secretary of State was opposed to so minute regulations. Hence it was modified. See Judical Proceedings February 1883 Nos. 131-134. Also earlier Circular Letter No. 16-1070 9 August (Jdl. No. 162). Also Resolution H. D. No. 10/605-18, 7 May 1886.

[2] Letter from Bengal No. 2700 T. 30 September 1876 and reply to that No. 1847, 13 December 1876.

[3] Resolution 22 Sept. 1882.

[4] Secretary of States' Despatch No. 12 Jdl. 12 April 1883. Circular Letter to Local Governments, No. 12-777-86 29 May 1883 and Resolution H. D. Jdl. (Jails) No.17/1221-31, 4 September 1885.

submit a report on the trial of an Inspector of Police at Howrah, which had attracted much public attention.[1] As in the earlier period, the Government of India interfered to secure obedience to its orders respecting the supply of arms to the police force[2] and the proportion of the military element in it.[3] The Central Government secured the co-ordination of the provincial departments in the detection of crime which was not local but had its ramifications in the distant parts of the country, as in the case of the forgery of currency notes,[4] or in the suppression

[1] Letter to Bengal No. 390. 10 September 1873

[2] Letter to Madras No. 116, 9 May 1884.

[3] Resolution H. D. (Police) No. 1/74-85, 20 March 1885, limiting percentage of military element to 10 p.c. of the total except in the Punjab. Bombay protested (Letter No. 2471, 6 April 1885) but the Government of India saw no reason to change its decision, to allow a greater percentage than in the Punjab. (Letter to Bombay No. 140, 28 April 1885).

[4] In July 1872 forgery of currency notes was discovered in Madras as well as in Bombay. The Finance Department reported the matter to the Home Department which called on the various Local Governments to submit information in the matter so that coordination of efforts might be possible. Capt. Weldon was appointed for the purpose and the Local Governments were asked to help him. Bombay police did not keep him informed of its action. The Governor General in Council asked the Bombay Government to "give such orders as shall ensure full and prompt inter-communication." The Government of India remarked also that "the discovery of simultaneous forgeries of Currency Notes on a large scale is a matter which requires close attention from the Supreme Government." (Letter to Bombay No. 565 21 October 1872) (Police Proceedings August 1872 No, 84-151)

of dacoity.[1] During this period the Governor General in Council carefully scrutinised the action of the Local Governments in suppressing female infanticide. Definite and detailed instructions under the Infanticide Act were given to the Local Governments on the subject and even their legal powers were put under restraint so as to avoid any danger to the general tranquility of the country. The Government of India insisted on its previous sanction being taken before the Act was proclaimed as being applicable to any village or clan.[2] The Government of India required the assimilation of rules in all the provinces even in respect of such minor matters as the hand-cuffing of undertrial prisoners and laid down general principles regarding them.[3]

The Supreme Government was primarily responsible for peace and order throughout the country, and was kept informed of all occurrences affecting it.[4] Generally there was no interference

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1 Resolution H. D. Nos. 3-120 to 131, 15 May 1875.

2 Police Proceedings, January 1873, No. 60-61.

3 Resolution H. D. Police Nos. 5-350-360, 4 November 1881; also Resolution Police No. 411, 25 September 1882. The Punjab Government requested to be permitted to retain the existing rules but the Government of India did not agree to it. Letter from Punjab No. 141, 18 October 1882 (Police Proceedings November 1882 No. 6).

4 Fully informed of the operations against Santhal Pargana outbreak in 1881. Also reports of the riots in Surat and Broach submitted, 5 April 1878 (Police, January 1879) Pro. Police, January 1886, No. 49. Detailed reports

with the steps taken by the Local Government, but when necessary, the Government of India did not abstain from calling for reports of the operations, suggesting course of action and remonstrating with the Local Government, if found remiss. For example, on the occasion of the Rampa rising in the Presidency of Madras in 1879-80, the Government of India, while approving of the measures adopted, laid down general principles necessary to prevent such outbreaks in the future, and pointed out the defects in administration which should be improved.[1] Even matters of lesser importance such as an increase in the number of murders in the Peshawar district,[2] or the movements of wandering Baluchi groups with safe-conduct passports and armed with fire-arms,[3] did not escape the attention of the

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of the Hindu Muslim riots in Etawah, Delhi, Jalundhar etc. in 1886 were asked for, and the Government of India asked the Local Governments concerned to take special measures to prevent the recurrence of similar disturbances in 1887 as Muharram and Ramlila would coincide again (Police Proc. April 1887).

[1] Police Proc: June 1880 No. 11; March 1881, No. 41; and June 1882 No. 72. The letter to Madras Government No. 34 of 4 February 1882 is of particular importance, as giving detailed instructions. In the case of misunderstanding between the Sowrahs of Ganjam and their Chief in 1880, the Government of India asked the Government of Madras to transfer the officer posted there (Letter to Madras No. 146, 9 February 1880).

[2] Letter to Punjab No. 475 (H. D. Police, 2 October 1886.) It was on a review of the Punjab Police Report for 1885.

[3] Police Proceedings, November 1886, Nos. 34-44. Madras Govt. reported that certain Baluchi gangs had

Central Government. It also watched carefully the working of the Whipping Act "in order that any tendency towards an indiscriminate or ill-judged resort to this form of punishment may be promptly checked."[1] Similarly the administration of the Factory Act of 1888 was supervised and observations concerning the principles regarding it were conveyed to the Local Governments.[2] It will be apparent from the above illustrations that the Supreme Government was always alive to the need of closely supervising the operations of the Local Governments in every department and enunciating general policy with the aim of reforming or preventing abuses.

So also the land revenue settlement policy, the procedure in the revision of settlements, the

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appeared in the northern districts of the Presidency possessing license for fire arms granted by the magistrate of Puri, pointed out that this was in contravention of the order of the Government of India; and suggested that positive instructions be reiterated to the governments of the Northern Presidencies to carefully attend to the instruction laid down by the Government of India (Madras Letter No. 2307 (Jdl) 1 Sep. 1885). The Government of India issued letter to Bengal (No. 398, 30 Nov. 1885) and Punjab (No. 399) asking conformity to the Resolution of 1879.

[1] Despatch to Secretary of State, No. 2 Jdl. 16 January 1882. In 1867 the Local Governments were left to themselves to supervise its working but in 1882 they were put into "possession of the views of the Government of India upon certain matters of an administrative character in connection with this subject." Resolution No. 2/44-5 H. D. Jdl. 11 January 1882.

[2] Factory Act No. XV of 1881. Letter to all Local

administration of the excise and the forest departments, the executive control over the judicial machinery, all demanded attention. The Government of India definitely abandoned the policy of permanent settlement, and, in order to remove the evils of periodical revisions, laid down the principles and regulated the procedure for revision of settlements in the territories not under the permanent settlement.[1] It caused a careful examination of the different systems of excise in force in India and though unable to make any sweeping changes in them, declared its intention of "gradually introducing such reforms and changes of system as the circumstances of each province may from time to time require."[2] Also, the Government of India interfered to preserve the intergity and independence of the judiciary. But, while leaving the control over the judicial organisation to the High Court, it superintended the working of the executive control exercised by the Local Governments, and generally when disposing of the requisitions of the latter for additions to the existing posts or reorganisation of judicial establishments, found opportunity to review the work of the courts or to suggest changes

Governments, No. 12-710-9 of 27 May 1881. Specially attention was called to the provisions relating to the age of child workers and inspection of the factories.

1 Memorandum on the Progress of the Madras Presidency during the last Forty years of British Administration by S. S. Raghavaiyangar, Inspector General of Registration, Madras, pp. 210—17.

2 Summary of the Principal Measures in the Finance Dept. under the Viceroyalty of Lord Ripon, p. 33.

in procedure so as to effect uniformity throughout the country.[1] It should not, however, be presumed that there was any meddling with the course of justice, or except in respect of financial control there was any serious retrenchment of the authority of the Local Governments.

The control by the Government of India over the public services was no less thorough. Though, under the new financial arrangements, the Local Governments were empowered to sanction entertainment of public establishments, their authority was limited by the rules relating to the grant of salaries and the creation or abolition of any class or grade of officers.[2] Consequently they had to apply for the previous sanction of the Governor General in Council for every increase in their superior staff and for every reorganisation of establisments. Moreover, the Local Governments were required to follow the various financial codes and service regulations which were framed by the Government of India, every departure

1 E. g. see letter to the Resident of Hyderabad No. 909 (Jdl.) 11 July 1874 (copy sent to Bombay Government) (Judicial Proceedings No. 162, July 1874); Letter to Bengal No. 792, 16 June 1874; Letter to Bengal No. 461, 26 March 1874; Letter to N. W. P. No. 436 (Jdl.) 20 March 1874; Letter to Punjab No. 187 (Jdl.) 3 February 1886 etc. Letter to Madras No. 78, 19 January 1883.

2 Resolution, 14 December 1870. para 21. The Local Governments could not create posts carrying over Rs. 250 per mensem or make additions to any such salary. Also they could not create or abolish any class or grade of officers or raise or reduce its pay.

from which relating to the grant of allowances, pensions, gratuities or other concessions to the public servants was reported to the latter for sanction. The supreme authority announced its policy, from time to time, regarding appointments, or laid down general rules affecting emoluments and promotions of some particular class of public servants. It was the duty of the Government of India to see that these general principles were properly enforced by the Local Governments. During this period the Supreme Government made a rule that no "non-native" should be appointed to a post with a salary of Rs. 200 and more per month without the previous sanction of the Governor General in Council or the Secretary of State (in the case of Madras and Bombay).[1] Many references came to the Government of India from the Local Governments on this account, or the former asked for explanations whenever there was a breach of the rule.[2] The Government of India made rules also for an increase in the emoluments of the Subordinate Executive Service throughout the country, and fixed the

[1] Resolution H. D. Nos. 21-746 to 753, dated 18 April 1879; Also Government of India's despatch to the Secretary of State No. 29, 24 April 1879 and Secretary of State's despatch No. 66 (Public) 10 July 1879 and his despatches to Madras and Bombay Nos. 7 and 9 of the same date. (Report of the Public Services Commission 1886, Appendix J).

[2] E. g. The N. W. P. Government was not permitted to appoint a European to Head Mastership in Benares on Rs. 350 a month. (Education Proceedings No. 42, August 1886.)

maximum and minimum grades for the Deputy Collectors and Tahsildars, as there was great difference in the rates of pay given in different provinces.[1] Other general arrangements respecting the civil service were also made by the Supreme Government.[2]

The control exercised by the Government of India at the time was, however, of a more general character and not so minute as before 1870. No doubt, the number of references relating to posts or reorganisation of establishments was still large but generally these references were such as might involve questions of policy or general principles.

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[1] Summary of the Principal Measures of Government in the Finance Department during the Viceroyalty of Lord Ripon. pp. 16-17.

[2] For example, the scheme for the creation of the Statutory Civil Service in 1870, or the scheme of parallel Judicial and Executive Civil Service for uniform promotion in the two branches of the Convenanted Civil Service, or the rule that no person other than Convenanted Civil Servant would be appointed in the first instance to any post reserved for them without the previous sanction of the Governor General in Council, was framed by the Supreme Government. Vide H. D. Notification No. 1371 dated 19 August 1875, and Notification No. 1534 dated 28 August 1879.

Also Resolution No. 1-27-38 dated 11 January 1881 and letter from Madras No. 2836 dated 5 December 1885 and reply No. 4 dated 4 January 1886. (Public Proc. January 1886 Nos. 16 and 19).

Rules relating to Statutory Civil Service under Statute 33 Vic. Cap. 3, Sec. 6 of 1870.

Rule 4 in Resolution No. 21-746-753 dated 18 April 1879 (regarding posts reserved for Covenanted Civil Service).

The Governor General in Council interfered to secure uniformity in the conditions of service in the different provinces, or to secure conformity to the established principles of administration. This control over policy, administrative system and discipline of the higher services was essentially a matter for the supreme authority.

With a view to secure proper supervision, the Local Governments were required to furnish returns and statistics in prescribed forms to the Government of India, and to submit periodical reports on the working of the various departments. The form of these returns and reports was fixed by the Supreme Government and had to be uniformly followed by all the Local Governments.[1] On the receipt of the returns and reports, it was customary for the Government of India to review them and forward its comments to the Local Governments.[2] Enquiries were often made regarding the action taken. Sometimes these extended to matters of minor detail.[3] The Lieutenant Governor of the Punjab

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1 Resolution H. D. No. 796 dated 12 May 1873; and letter to Bombay No. 1326 dated 18 July 1873, and to Bengal No. 1820 dated 16 July 1873; also letters to Bombay No. 358, N. W. P. No. 359, Bengal and Oudh dated 6 March 1874. (Judicial Proc. March 1874 No. 18-50) Also Resolutions were issued in 1879 and 1880 relating to educational forms and tables. (Educational Proceedings, 1879 and 1880)

2 For example, letter to N. W. P. No. 538, 16 October 1884 reviewing Report on Police Administration. Jail Administration of Oudh report was reviewed, and detailed criticisms wers made. (Judicial Proceedings, January 1872)

3 For example Government of India's letter to the

drew attention to two such enquiries and opined that "much unnecessary correspondence, labour and waste of time" were caused thereby.[1] He submitted that the "Local Governments may be trusted to carry out the orders and the declared policy of the Government of India, and do not need to be controlled and watched in these minutiae." No doubt, occasionally departmentalism led this otherwise salutory supervision to become excessive. But on the whole, the interference of the Government of India in provincial administration had greatly abated after the inception of Lord Mayo's scheme.

Legislative Control.

There was no substantial change in the control by the Government of India over the legislative activity of the Local Governments. Apart from the previous sanction necessary for the introduction of the Bills under the Indian Councils Act of 1861 and the Secretary of State's orders respecting penal clauses, no other interference was exercised with the local Bills.[2] The effort of the Government of India in 1869-71 to review all proposed local Bills with the aim of perfecting them both as to policy and form, had failed.[3] The opposition then aroused, made the

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Punjab Government No. 315, 12 September 1885 enquiring whether its remarks on certain cases of infanticide had been communicated to the district authorities.

1 Letter from Punjab No. 166, 3 November 1885. (Police Proc. No. 16, November 1885).

2 Section 43 of Indian Councils Act, and the Secretary of State's Despatch No. 35 (Legislative) 1 December 1862.

3 See Chapter II.

Supreme Government cautious; and subsequently when an attempt was made by the Secretariat of the Government of India to examine more than the penal provisions of the Bills submitted there was reluctance to allow it.[1] The Governor General in Council merely directed that the Legislative Department "might consider whether the bill was within the powers of the local legislature, and whether it was consistent with the general principles of our legislation", and if there be any objection "in either of these respects it should bring the matter to His Excellency's notice." But the attention of the government concerned was to be directed to the defects, "not officially but non-officially.[2] The Local Governments had already been requested to submit copies of those Bills "which may possibly conflict with some statute or some Act of the Governor General's Council......or jurisdiction of the local High Court" before introduction, in order to guard against their exceeding the powers of the local legislatures. But it was optional for them to do so.[3]

In 1874 the Secretary of State ordered that all Bills before they were introduced into the Legislative

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[1] A selection of papers relating to the Constitution and Functions of the Indian Legislative Councils, 1886. pp. 235-36.

[2] Council Order dated 10 May 1883. Ibid. p. 239; Note by Mr. Forbes para 36 (Ibid. pp. 241-252).

[3] Circular Letter to the Local Governments of Madras, Bombay and Bengal, No. 570-572 dated 23 May 1879.

Council, local or Imperial, must be submitted to him for examination and information.[1] The Governments of Bombay and Madras sent the Bills direct to him, but the Government of Bengal was required to forward them through the Government of India. A problem arose in the Legislative Department of the Government of India, whether it should merely transmit the Bills to England, or offer comments and criticisms on their scope. After much discussion, it was decided that the Local Government should submit two sets of papers, so that the Government of India might examine the Bills closely without delaying their transmission to the Secretary of State. All communications on the subject of the proposed legislation were made unofficially. The Presidency Governments were also asked to forward copies of the Bills and accompanying despatches.[2] The decision of the Secretary of State was communicated in the first instance to the Government of India which informed the Local Governments.[3] The Government of Bombay, perhaps swayed by the idea of prestige, asked that such communications

[1] Despatch from the Secretary of State No. 9 (Legislative) 31 March 1874 (Public Proc. No. 130, January 1875).

[2] Note by Mr. Forbes paras 5-6

[3] On representation by the Government of India (Despatch No. 45 H. D. 28 July 1874) the Secretary of State conceded that "any instructions to the Local Governments, which he may have to give, he will communicate to the Government of India." (Despatch No. 33, 15 October 1874. Also Despatch dated 11 February 1875).

should be made direct to it, but the Secretray of State declined.[1]

No change was effected by the Secretary of State's orders in the practice of submitting Bills (under section 43 of the Act of 1861) to the Governor General before introducing them in the legislature. Generally, the Supreme Government reserved its opinion on provisions, other than penal, of the Bills thus submitted for a later stage when the Bill as passed by the Legislative Council came for the final assent of the Governor General.[2] Objection was occasionally taken at the initial stage to the penal clauses; or if deemed to be ultra vires, the Bill was returned for legal opinion or for necessary changes.[3] In a few cases the entire

[1] The Government of India informed the three Local Governments (Letter of 7 July 1875) respecting the procedure sanctioned by the Secretary of State. The Bombay Government protested. Letter to the Government of India No. 38, 3 February 1875. Reply No. 301, 20 February 1875; Bombay Letter No. 56, 27 February 1875; Secretary of State's Despatch No. 18 (Legislative) 15 April 1875, and sullen protest of Bombay, Letter No. 163 dated 14 June 1875.

[2] Letter to Bombay No. 2047 (Public) 20 December 1882 para 2 (Public Proc. January 1883 Nos. 13-21); Letter to Bombay No. 115, 27 January 1886 para 2 (Judicial Proc. January 1886 No. 257); Lord Ripon objected to such reviews at the preliminary stage for he desired to retain the freedom of the Viceroy to veto the Bills if required in the light of the discussions of the Local Councils, Minute, 9 July 1884.

[3] For example, Letter to Bombay No. 115, 27 January 1886, para 1; Letter to Bombay No. 560, 25 April 1884 requiring the proposed draft Bill, extending the Factory Act to be submitted to the Government of India

Bill was discussed, but as in the case of the Local Self-Government Bill of Bombay this was done at the request of the Local Government itself to see that it conformed with the principles laid down by Lord Ripon's Government.[1] The general practice at this time was to add to the sanction of the penal clauses a remark that "the Bill has not yet been examined in its other aspects, and that the consideration of other points and of the provisions of the Bill generally is reserved until a later stage after the measure has been discussed in the local Council and subjected to local criticism."[2]

When the Bill finally came for assent it was scrutinised thoroughly in the light of public criticism and if undesirable was vetoed.[3] Sometimes objection was taken to certain provisions, and, as in the case of the Local Board Act of the Madras Presidency,

before introduction to see that it was within the powers of the local legislature; Letter to Madras No. 907 H. D. (Jdl.) 22 June 1883 (Bill regulating procedure of Village Courts may be ultra vires); or Letter to Bengal No. 690 (Jdl.) 17 May 1883; (Bengal Local Self Government Bill found ultra vires), Letter to Bombay No. 202 (Jdl.) 16 February 1882; also Letter to Bombay No. 137 (Jdl.) 28 January 1876 etc.

[1] Bombay Letter No. 301 (Legislative) 27 November 1883 and reply to above No. 2047 (Public) 20 December 1882.

[2] Letter to Bombay No. 115 (Jdl) 27 January 1886.

[3] For example, Bombay Bill for the preservation of game was vetoed owing to public criticism. Judicial Proceedings No. 33, July 1881. Also Bengal Municipalities Bill was disallowed. Municipalities Proceedings No. 12-13, February 1873.

the Local Government was asked to take an early opportunity to amend the law where necessary, though assent was not withheld.[1] Judging from the practice of the period, we may conclude that within their limited sphere the local Legislative Councils were free to legislate for the territories under their charge, and that the Local Government was not greatly interfered with in its legislative action.

The problem of Direct Correspondence with the Secretary of State.

An attempt was made to strengthen the control of the Government of India by limiting or abolishing the privilege of direct correspondence with the Secretary of State possessed by the Governments of Bombay and Madras. Even the reduction of these governments to the status of Lieutenant Governorships without a Council and other traditional symbols of quasi-independence was suggested.[2] Such proposals prove the continuance of very strained relations, and the Government of India papers are full of complaints of the conduct of the Presidencies. Their attitude

[1] Madras City Municipalities Act was assented to, but the Local Government was requested to amend it as early as convenient as the provision relating to tax on wholesale dealers in liquors appeared to be objectionable. Letter to Madras No. 442 (Municipalities) March 1884; Also Madras District Municipalities Act. Letter to Madras No. 1533 (Municipalities) 8 July 1884; Bengal Municipalities Amendment Act of 1884 also assented to under similar conditions. Letter to Bengal No. 678 (Legislative) 16 April 1884.

[2] Public Proceedings Nos. 151-156, March 1880; Minute by Sir A. Arbuthnot, dated 5 September 1879.

was represented as very often one of open hostility to, or scornful disregard of, the authority of the Supreme Government. The Government of Bombay continued its "notorious insubordination", and at Madras during the governorships of Lord Hobart and the Duke of Buckingham, that government too was a source of irritation to the Government of India.[1] It was hoped that with the abandonment of the system of minute interference their antagonism would cease. But the hope was in vain. The Presidency Governments referred financial proposals for sanction to the Secretary of State over the head of the Government of India, preferred appeals against its orders, or were loth to carry into execution schemes of administrative reorganisation unless it was made plain to them that the Secretary of State was behind the Government of India.[2] The extreme of annoyance was reached in the

[1] Minute by Hon'ble Sir A. Arbuthnot, 5 September 1879. (Public Proceedings March 1880. No. 151), Balfour; Lord Lytton's Indian Administration pp. 191-193.

[2] For example, Rev. Griffith's case in Madras, Mr. White's leave case, a memorial for compassion allowance and financial concessions for David Sassoon Hospital in Bombay. Office Memorandum, Finance Department, No 471,18 May 1870; Also Bombay Government wrote direct regarding special leave rules for the police establishment there and Madras Government's letter for grant of compensation to an ex-zamindar (Public Proc. No. 206 December 1876.) In the matter of the reorganisation of judicial service in Madras, the Local Government demanded a copy of the Secretary of State's despatch for its guidance as it could not accept the proposals of the Government of India. Madras letter No. 1545,

time of Lord Lytton. Sir A. Arbuthnot wrote, "at this moment, the difficulty, if not impossibility of getting any orders of any description carried out at Madras or obtaining any information on any subject, however important, from that government is a bye-word among the various departments of the Government of India."[1] The inefficiency of the famine administration there and the "withholding of information which it was the duty of the Local Government to supply" compelled the Viceroy to appoint a special officer to organise relief.[2] The Governor of Bombay, also, in the consciousness of his superior local knowledge, opposed the famine relief policy enunciated by the Supreme Government, and went to the length of publishing the Resolution of 26 January 1877 in the local newspapers "instituting an invidious and unfounded contrast between the action of the Governor General in Council and that of the President in Council"..... "a step wholly inconsistent with the subordinate position assigned by Parliament to the Government of Bombay."[3] The Government of Madras offered "a passive opposition" which deterred for years

11 July 1884. For this case see Judicial Prceedings Nos. 274-293, September 1884.

[1] Minute by Sir A. Arbuthnot, 5 September 1879.

[2] Appointment of Sir Richard Temple. Lady Balfour: Lord Lytton's Indian Administration, pp. 193-5.

[3] Despatch from the Secretary of State to Bombay No. 13 (Revenue) 6 April 1877; Lord Lytton's Minute, 17 March 1880; Sir A. Arbuthnot's Minute, 5 September 1879.

the adoption of reform in forest administration.[1] The Government of Bombay considered it unnecessary to inform the Government of India about the occurrence of a Hindu-Muslim riot in Bombay, but sent a report to the Secretary of State.[2] This position was intolerable to the Supreme Government which declared it "detrimental to the interests of the whole Empire."

The evil was rightly ascribed to "the unnecessary power which they possess of direct communication with the Secretary of State."[3] Lord Mayo's Government realised the need of "distinct rules being laid down in regard to the extent to which the Local Governments may correspond direct with the Home Government on questions which affect the Imperial finance."[4] On a note drawn up in the Financial Department, the Government of India formulated rules and sent them to the two Presidency Governments for consideration. These rules provided for the preliminary consideration by the Government of India of representations on the subject of creation of offices and the grant of salaries, as well as modification of general rules relating to pension,

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[1] Minute by Sir A. Arbuthnot, 5 September 1879.

[2] Despatch to the Secretary of State, No. 18, 2 June 1874. (Police Proc: No. 11, June 1874)

[3] See discussion in the Viceroy's Executive Council on the proposed conversion of the Presidency Governments into Lieutenant Governorships, Minutes of Lord Lytton, Mr. Johnson, General Haines and Mr. Rivers Thompson. Public Proceedings, Nos. 151-156, March 1880.

[4] Office Memo. Finance Department, No. 471, 18 May 1870.

gratuity, leave and allowances.[1] The Governor in Council of Bombay considered it to be "very undesirable" that "any question affecting this privilege should be raised" and expressed "his inability to concur in any rules which would place the Governments of Madras and Bombay in an inferior position to that which they now hold."[2] The Government of Madras was not so hostile; while Mr. Arbuthnot and Lord Napier welcomed the proposal, Mr. Sim regarded the existing privileges as adding "to our dignity and status in the eyes of our subjects" and opposed the suggestion.[3] The Secretary of State was addressed on the subject and the defects of the existing practice were pointed out.[4] The Duke of Argyll agreed with the Government of India and ordered that all correspondence on the "subjects of the creation of new offices and the grant of salaries, gratuities and allowances......and by consequence on all modifications of existing orders on those subjects shall proceed through the Government of India."[5] Further he ordered that "all references by the

[1] Letter No. 3686 dated 6 August 1870.

[2] Letter from Bombay Government to the Government of India, No. 2488, dated 15 October 1871.

[3] Letter from Madras to the Government of India No. 1035 dated 12 July 1871 including the Minutes of Mr. Arbuthnot (16 January 1871) of Lord Napier (21 January 1871) and Mr. Sim (8 July 1871.)

[4] Despatch to the Secretary of State No. 91 dated 7 September 1871.

[5] Quoted in Government, of India letter to the Prsidency Governments No 2546/47 H. D. 17 June 1872.

Governments of Madras and Bombay to the Secretary of State on important questions of general principle relating to the army and the relations of the Government with Foreign Princes and States shall be made through the Government of India." No rule could be prescribed for correspondence upon other questions, but it was hoped that "on every subject of real importance a reference would in the first instance be made to the Government of India," or otherwise the Secretary of State would pronounce no decision without previously obtaining an expression of the opinion of the Governor General in Council.

Thus the privilege though curtailed was retained. Even in the case of Bengal, the wholly useless system of writing "special narratives" and despatching them to the Secretary of State through the Government of India was not discontinued, perhaps owing to the regard for the susceptibilities of the Lieutenant Governor.[1] However in 1876 the Government of India wrote to the Secretary of State on the recent cases of breach of the existing rules by the Governments of Bombay and Madras. At the same time it requested that the same principle should apply to the references relating to dissents against the policy of the laws passed by the

[1] Despatch to the Secretary of State No. 76, H. D. 2 September 1872. The Government of Bengal (Letter No. 3580, 30 November 1871) desired to continue the system, but the Government of India had requested the Secretary of State for its discontinuance. Nothing however seems to have been done.

Supreme Government.[1] The Secretary of State accepted the suggestion, and the Government of India then informed the Presidency Governments that "questions relating to dissent from the legislative acts of the Government of India and memorials thereon ought first to be submitted to the Government of India, in case of appeal to the Secretary of State."[2] These orders were reiterated in 1879 on a reference by the Government of India against the submission direct to the Secretary of State by the Government of Madras of one memorial from a public servant for pension and another from the Princess of Tanjore for pecuniary assistance.[3]

The position was thus clearly defined that in all matters relating to the financial administration, political and military affairs or other questions of importance, reference should in the first instance be made to the Government of India, and appeals against its orders to the final authority in England should be submitted through it. Undoubtedly, this decision should have buttressed the general

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[1] Despatch to the Secretary of State No. 80 dated 8, December 1876; also Public Proceedings Nos. 206-210, December 1876.

[2] Despatch to the Secretary of State No. 17 (Public) 22 February 1877, and the letters to the Presidency Governments, Nos. 1190 and 1191, 19 June 1877. (Public Proc. Nos. 182-83, June 1877).

[3] Despatch from the Secretary of State No. 16 (Public) 13 February 1879, and Letters to the Presidency Governments Nos. 894 and 895, 8 May 1879 (Public Proc. No. 56-58 May 1879).

control of the Governor General in Council; but we are not sure if it was followed in all cases by the Presidency Governments. The effort to obliterate the distinction between the Presidency Governments and other Local Governments in their status and constitution had no success.[1] Even the highly undesirable, uneconomical and expensive system of the presidential armies, with their separate staff appointments, which the Government of India and others had tried in vain to abolish and the abolition of which was recommended by the Eden Committee, was not done away with, and continued in existence till the year 1894.[2]

The extent of decentralisation.

In the foregoing pages we have discussed the extent of the control exercised by the Supreme Government over the provincial administration in order to demonstrate clearly the scope of the measures of financial decentralisation taken after 1870. From that it must be evident that the Government of India while delegating authority in matters of detail to the Local Governments exercised its superintendence to secure conformity to the general principles laid down by itself, and to safeguard Imperial interests. But the magnitude of this interference should not lead us to suppose

[1] Despatch to the Secretary of State No. 21 (Public) 17 March 1880.

[2] Eden Committee Report, paras 40-49, 126-129 and 144; also Public Proceedings, Nos. 151-156, March 1880.

that there was no enlargement in the powers of the Local Governments. In almost every sphere of their activity these governments had wide discretion in applying the general policy to the details of administration. The increase in their powers of financial control made it possible for them to effect changes in lower establishments, and to prosecute a programme of public works without much obstruction from above. Moreover, when money was to be provided out of provincial resources, the Government of India did not normally feel its former hesitation in sanctioning schemes involving outlay of public funds. The only serious limit on their power was the capacity of their purse and the reaction on public opinion. There was now a disposition to leave as much responsibility to the Local Governments as practicable. A perusal of the Acts passed by the Indian legislature during this period will show that the execution of the laws, in many cases, not of Imperial importance, the rule-making power or in certain matters, even the enactment of laws was being assigned to the Provincial Governments.[1] Generally the previous sanction of the Governor General in Council was required in important matters, or the grant of higher salaries, the framing of rules or the extension of some special laws to

[1] For example, the Bengal Tenancy Act 1885, Land Improvement Loans Act 1883, C. P. Tenancy Act 1883, Excise Act 1881, Burma Forests Act 1881, Indian Factories Act 1881, N. W. P. Rent Act 1881, Press Act 1878, Stamps Act 1879, Northern India Canals and Drainage Act 1873, Criminal Procedure Code 1872, Land Revenue N. W. P. Act, etc.

any particular territories.[1] But later, a tendency to substitute the phrase "subject to general control" for "the previous sanction" of the Governor General in Council is discernible.[2]

Relaxation of control is most marked in respect of local self-government, grant of loans to local bodies or to agriculturists for relief of distress or land improvement, tenancy questions, land revenue administration, control over factories, industrial and educational affairs. In other departments the entire detail was wholly determined by the Local Governments subject to the general control by the Supreme Government in regard to policy. In the public works department too, the control was light, and the Local Governments were free to carry out their schemes of internal improvement

[1] For example, Agriculturists Loan Act (XII) of 1884, Sec. 4 (1), Indian Explosives Act (IV) 1884. Sections 5 and 7; Land Improvement Loans Act (XIX) of 1883, Sec. 10; Bombay Revenue Jurisdiction Act, amendment (XV), of 1880 Sec. 4 ; The Indian Merchant Shipping Act (VII) of 1880; Arms Act (XI) of 1878; Indian Forest Act (VII) of 1878 Sec. 1, 26; The Opium Act (I) of 1878, Sections 5 & 8; The Registration Act (III) of 1877, Sec. 14 (salaries); Scheduled Districts Act (XIV) of 1874 Sections 3 & 5, Dramatic Performances Act (XIX) of 1876 Sec. 10 (for extension of the Act to particular territories); Reformatory Schools Act (V) of 1876, Sec 4 ; Punjab Land Revenue Act 1871, Sections 9, 11, 19, 65 and 66; Act for Registration of Criminal Tribes 1871; etc.

[2] As for example, under Sec. 39 (7) of the Bengal Tenancy Act (VIII) of 1881, Indian Tariff Act (XI) of 1882 Sec. 5; Indian Emigration Act (I) of 1882, Section 8 and 145; C.P. Land Revenue Act (XVIII) of 1881, Sections 5, 10 and 15; etc.

within the limits of their authority and subject to the general regulations of the Public Works Department Code. Thus, in determining their financial programme, in regulating the routine of administration and in legislating for their local needs, the Provincial Governments had gained such latitude as was compatible with the authority and responsibility of the Government of India for good government of the country.

Influences working in this behalf.

The development in this direction was universally welcomed. The early apprehensions of the "Imperialists" that the "partial provincialisation" of finances would lead to disintegration and dismemberment of the Empire had proved baseless. The "Federalists" also had something to console them, though their complaint was that the measure did not go far enough. Clearly, the success of the project had increased the number of its supporters and the disposition of the Government of India was in the direction of further but gradual relaxation of control. The evils of over-centralisation were quite patent. From Lord Mayo to Lord Ripon, every Governor General strove to diminish it, not with the aim of establishing a federal constitution, but either with the desire of making the central control really effective and systematic, or for the purpose, however dimly conceived, of providing for the association of the Indians with the administration of the country. Even Lord Lytton was no half-hearted advocate of the policy of decentralisation. In one

of his minutes he wrote, "I consider that the Government of India is still over-centralized in some respects. Ever since I have been at the head of this Government I have protested and acted against over-centralization; and I think I may claim some credit for the honesty of this assertion on account of the measures I have taken to diminish centralization... The principle of provincial responsibility is still susceptible of advantageous extension in many directions....................Administrative decentralization, rationally organized is, I am convinced, the policy best calculated to develop the resources and improve the administration of India."[1] But he had no faith in the schemes of federation which would have freed certain functions of the Presidency Governments from the control of the Government of India. Lord Ripon's programme of local self-government and the infusion of non-official Indian element into local administration was based on a scheme of decentralisation depending on responsibility to the people through the agency of representative institutions.[2] There was thus, a gradual development of provincialisation till the commencement of the period of financial and foreign crisis in the middle of the eighties, and there were many forces helping it.

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[1] Lord Lytton's Minute 17 March 1880.

[2] Government of India Resolution 20 September 1881; also 'Administrative Reforms in the Bombay Presidency' a paper read before the Poona Sarvajanik Sabha. Quarterly Journal, Vol. IV. No. 4, 1881 p. 10.

The increase in the amount of work as a result of administrative progress made it impossible for the over-worked Secretariat of the Government of India to keep an eye on all the details of the government of a vast country. All that it could do was to set the policy and watch its operation by means of reports and returns. Moreover, the growing needs of the administration could not be met by a central financial system. The only remedy for that was to shift more and more of the burden on local and provincial units. Finally, the demand for representative councils controlling the executive government of the country was raised by the politically-minded public opinion of India. A Legislative Council which should make laws, discuss the budget and interpellate the executive was what the provincial political organisations and later the Indian National Congress prayed for.[1] This wish of the people could only be satisfied in the sphere of local or provincial administration. Decentralisation, however imperfect, was necessary for that. But as nothing was done to meet these political demands, the extent of decentralisation too was very limited. Nevertheless, the tendency was

[1] A petition to the House of Commons, contained in The Quarterly Journal of the Poona Sarvajanik Sabha Vol. III No. 1, July 1880, pp. 5-7; Reports of the Indian National Congress. Vol. I, 1885, p. 24, Vol. II 1886, pp. 49, 99 etc.; The Annual Report of the Madras Mahajan Sabha 1885-86 containing an Address presented to Lord Dufferin in February 1886; Also Proceedings of the Bombay Presidency Association, British India Association, etc.

markedly in that direction. The problem before the Government of India heretofore had been, like that of Austria, how to enlarge the "provincial powers for provincial purposes without weakening Imperial interests," and that was, to some extent, secured by the system introduced before 1887.[1]

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[1] Lord Lytton's Minute 17 March 1880.

CHAPTER V.

THE SETBACK 1888-1906.

The tendency to increase the discretion allowed to the Local Governments, which was a feature of the years immediately succeeding Lord Mayo's financial decentralisation scheme, is not so marked in the next period. Owing to many causes, the practice of the Government of India grew more rigid from about 1887 until the retirement of Lord Curzon in 1906. This change was accidental and temporary for there is no evidence of any design to go back on the established system of "provincialisation." The financial scheme of "Provincial Contracts" was not only in full force but was further extended. There was no diminution of the legal powers of the Local Governments; on the contrary, in many cases these powers were enlarged. So also their legislative and administrative functions. There is no visible tightening even of the financial authority as regulated by the various Codes and Resolutions of the Government of India. The only remarkable difference is in the manner in which the Government of India interpreted or used its powers. Provincial Governments were constantly reminded of their position. Their legal subordination was emphasised. The real character of the financial arrangements was laid bare. Uunder Lord Curzon, the superintending and controlling authority was

allowed full play. These methods, without effecting any alteration in the financial or administrative framework, led to a setback, resented by the Local Governments and denounced by public opinion.

Supreme Government's interpretation of the nature of Provincial Contract.

Financial difficulties disposed the Secretary of State to rigorous economy and the avoidance of new outlay. To meet the growing military and exchange charges, he wanted "to keep within strict limits expenditure from the provincial revenues."[1] He reminded the Government of India that "expenditure authorized during the currency of an agreement, on the ground that the funds of the Provincial Governments are adequate to meet it, will make it more difficult for the Imperial Government, in framing a new agreement to claim its full share of the improvement which may have taken place, and, therefore, additional payments should only be sanctioned when really necessary and not merely because the balance of the particular Provincial Government may be able to meet the expenditure at the moment."[2] A year later he emphasised the point further, and suggested that reforms however desirable should be postponed till the return of normal financial conditions.[3]

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[1] Secretary of State's Financial Despatch No. 191, 5th July 1883 and No. 183 of 28th June 1883.

[2] Secretary of State's Financial Despatch No. 158, 10th August 1893.

[3] Secretary of State's Financial Despatch No. 144, 26 July 1894. He wrote: "This observation...has also an

The Government of India, on its part, never admitted the claim of the Local Governments to a continuous undisturbed enjoyment of the revenues assigned to them. Besides the occasional absorption of their balances, in times of emergency,[1] it declared its right to resume that share of the growth of revenue which it did not consider necessary for provincial expenditure at the end of the period of the contract.[2] Local Governments and some non-officials condemned this practice as an infringement of the "Provincial Contract,"[3] but the Government of India justified its action by the terms of the contract, and on many occasions explained the main principles of the scheme. The policy of the Government of India

important bearing on those charges which fall on provincial revenues for, although the readjustment may be deferred till 1897, the growth of provincial expenditure may seriously affect the power of your Government to obtain an adequate share of the normal inprovement in the revenues."

[1] Contributions were levied in 1886, 1890-91 and 1894-95 owing to the Burmese War or fall in Exchange amounting to Rs. 1295000 besides those levied during the Afghan War. (Evidence of Sir H. Waterfield. Expenditure Commission, Vol. I.) Also in 1889-90 to a total of Rs. 740000 (Financial Statement 1889-90).

[2] Resolution Finance Department, No. 458, 28 January 1887

[3] See the letters of the Local Governments at the time of the revision of contract in 1897; also the speeches in the Budget debate of 1897; and the speeches of Hon'ble Rai Sri Ram Bahadur, from 1901 to 1904 and Hon'ble R. M. Sayani in 1896 (Proceedings of the Legislative Council of India 1901-1904 and 1896).

during this period is clearly enunciated in these statements.

The Supreme Government did not recognise the inalienable right of the Local Governments to the revenues administered by them. It held "that the revenues assigned to them are the revenues of India, though alienated for a term to provincial uses with a view to their better and more economical administration,"[1] and that the Government of India had a "primary lien on all revenues collected," except the purely local duties.[2] Under the system of "Provincial Contract" the authority over certain revenue and expenditure was delegated to the Local Governments "for a time only," and at its expiration the Government of India resumed full authority to settle anew the conditions of fresh delegation for a new term.[3] In the words of the Secretary of State "these agreements are of the nature of a budget made for five years instead of for a single year."[4] While, therefore, permitting the Local Governments to use the growth of revenue for provincial expenditure during the currency of the "Contract," the Government of India reserved the same right of limiting the expenditure of any province, which it

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1 Financial Statement 1887, para 43.

2 Sir Edward Law, Finance Member, Budget Debate 1902. Proceedings of the Legislative Council 1902 p. 196.

3 Resolution No. 4255 A (Finance) 6 October 1896, para 4.

4 Secretary of State's Despatch No. 116, 21 June 1894, para 9.

could exercise if the expenditure had remained Imperial.[1]

Two conclusions follow from this, first, that the Government of India set apart, for a specified period only, so much of its revenues as it could reasonably expect to spare, to meet the civil expenditure placed under provincial control, and second, that at the expiry of the term, the revision of the "Contract" was determined by the prior claims of the Supreme Government on the revenues, because of the more important services which it retained under its direct management.[2] The arrangement was essentially administrative; the Government of India delegating its powers to the Local Governments over such subjects as could be better managed by devolving responsibility on them.[3] The sole points to which

[1] Resolution, 6 October 1896, para 6.

[2] Resolution, 28 January 1887, para 3.

[3] The Government of India made it clear to the Government of Bombay. Letter No. 506, 6 February 1897.

"It was never intended to draw a sharp line of distinction between subjects of expenditure from which the people of Bombay derive direct benefit, and the subjects of expenditure from which they did not, and to separate off the former into an account from which the latter should be excluded. The Government of Bombay are regarded as the agents of the Government of India for the administration and control of revenue and expenditure of both kinds; and the object of the Provincial system of finance is to give to the Local Government fuller powers of administration and control than it would otherwise be possible to assign to it. The sole question in respect of the items which the Government of Bombay would exclude from the financial account (some items which they thought should be Imperial) is whether they

the Government of India addressed itself on the occasions of the revision of the contract were to find out the existing standard of expenditure in the province, to decide if that expenditure must be provided for by an assignment of Imperial revenue, and to fix the revenues sufficient for the purpose.[1] It was neither essential nor was it the intention of the Supreme Government to review the financial needs of the province or to allocate funds on any equitable basis in proportion to the revenues collected therein. The chief aim of the Government of India was to set a limit to the demands of the Local Governments for a time, and to secure "a deliberate and steady rate of progress in desirable expenditure."

The Government of India regarded periodical revisions of the settlement as necessary to that control which the Imperial Government ought to

can be more effectively administered and controlled by the Local Government, which through its officers is on the spot, than by the more distant Government of India who cannot possess the same means either of information or of direction and control......The question which arises in each case is not whether it is just or unjust to debit certain charges to the Provincial account, or whether Provincial account will gain or will lose certain advantages by this being done. It is purely the administrative question whether the administration and control of certain public matters are best retained in the hands of the Imperial Government or are delegated to the Local Government. If administrative control is devolved, then in ordinary cases, under the present financial constitution, the financial responsibility follows."

[1] Letter to Bengal No. 1250A. 17 March 1897. Thomas: Federal Finance in India, pp. 254—261.

keep over the disbursement of revenue. For two reasons it decided that the time was not ripe for a permanent contract, namely that there could be no certainty of a steady progress of revenue and that the Government of India must step in to relieve the Provincial Government by additional assignments in case of famine and other abnormal disaster. Moreover, when the spending authorities had no responsibility for taxation there could be no incentive to economy, with the result that growth of income was liable to be used for increase of expenditure. The Government of India apprehended that in such a case any permanent assignment would act as a direct hindrance to the remission of taxation.[1] The revisions were used to limit general provincial expenditure with reference to the financial requirements of India as a whole, so as to assist the poorer provinces with the increments of revenue arising from the growing wealth and prosperity of the country.[2] The theory of quinquennial settlement held the field for many years even though a strong protest was made by some Local Governments and non-officials.[3] The Government of India was not in a position at first to forego any opportunity of replenishing its depleted resources; and later when surplus budgets

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[1] Evidence of Mr. Jacob Q. 20033, and Sir H. Waterfield Q.588, before Indian Expenditure Commission.

[2] Resolution, 6 October 1896.

[3] For example, Letter from Bombay No. 506 of 6 Feb. 1897; and Bengal No. 611F of 27 January 1897.

became a normal feature, the provincial finances were so crippled by famine and plague that the Supreme Government had to give them substantial doles to save their administration from utter dislocation.

In view of the clear exposition of the character of the "Provincial Contract," it is surprising to find statements frequently being made that the arrangement was not equitable, or that the people of a particular province "contribute more largely to the Imperial fisc" than the other provinces, or that the control exercised by the Central Government in enforcing the budget rules and in insisting on the minimum provincial balances was unwarranted or undesirable.[1] Since the revenues were Imperial revenues and the Secretary of State had not relinquished his statutory control over any part of them, and the Government of India was responsible to the Secretary of State, and the Provincial Governments were agents of the Central Government, such contentions were without foundation. The Government of India had delegated some of its authority to the Local Governments to be exercised by them subject to the conditions laid down. These

[1] For example, speech of Sir A. Mackenzie, Lieutenant Governor of Bengal, in the budget debate of 1896 as well as other speeches by the non-official members, as for example, of Mr. Sayani, Mr. Anand Charlu etc. Also see Rai Sri Ram Bahadur's speech dated 27 March 1901 (Proc. Legislative Council 1901 p. 243), and his speech dated 26 March 1902 (Proc. Leg. Council 1902, p. 154).

rules, which were framed in 1877, were further systematised in 1892 and 1897.[1] They declared most unequivocally the right of the Government of India to issue "instructions to Local Governments on general or particular matters affecting the transferred revenues and services," when the Governor General in Council considered it expedient to interfere with their discretion. "The powers," it was stated, "vested in the Local Governments by this Resolution are subject to the general supervision and control of the Government of India."[2] The Government of India had transferred such powers only as it possessed in regard to the provincial or divided heads, without affecting in any manner the authority of the Secretary of State. In all cases in which his sanction was necessary, final orders could not be passed by the Local Governments without reference to the Government of India.[3] The orders of the Secretary of State were however required "in all matters of grave financial importance and in certain minor matters."[4] Under the existing law, it was futile to expect any substantial relaxation of control by the Government of India.

The framework of the regulations of 1877 under which the financial powers of the Local Governments were to be exercised was not

[1] Resolutions, 27 March 1877; No. 1142 of 17 March 1892 and No. 3531A of 11 August 1897.

[2] Resolution, 17 March 1892, para 2.

[3] Ibid, para 3.

[4] Resolution, 11 August 1897, para 3.

substantially modified by later amendments, though some changes in detail were made both in 1892 and 1897. Moreover, the character of the delegated powers was then clearly defined.[1] While enhancing the authority of the Local Governments in respect of grant of loans to local bodies,[2] "landholders and notabilities," and advances to cultivators subject to the limitations on the rate of interest and period of loan,[3] the general effect of these amendments was to emphasise the budget rules and restrictions on the withdrawals from the provincial balances, the minimum of which was fixed in 1892.[4] To prevent frequent demands for further assignments whenever the Government of India pressed for reform in any of the transferred services, a clause was added in 1897 that the financial settlement was a "consolidated one, and not a collection of separate

Limitations on Provincial authority: Finance

[1] See paras 2 & 3 of Resolution of 17 March 1892 and paras 3, 14 and 15 of the Resolution of 11 August 1897.

[2] Para. 7, Resolution of 1892.

[3] Paras. 7 & 8, Resolution of 1897.

[4] Para. 6, Resolution of 1892.

The minimum balances were:—

C. P.	8 lakhs
Lower Burma	6 lakhs
Assam	5 lakhs
Bengal	20 lakhs
N. W. P. & Oudh	20 lakhs
Punjab	10 lakhs
Madras	20 lakhs
Bombay	20 lakhs

settlements for each provincial head," and that the Local Governments must "maintain all provincial services in a state of administrative efficiency, providing any increased expenditure necessary for the purpose either from savings by economical administration, or from development of revenues."[1] The budget estimates of the Local Governments required the final approval of the Government of India, "not for the purpose of restricting the freedom of Provincial Governments but for accurate estimating."[2] But once the budget was sanctioned a Local Government could not authorise any expenditure involving an excess over the budget grant for the year for any provincial or divided major head without effecting reappropriation from some other similar head. The total budget grant could not be exceeded without the previous sanction of the Government of India.[3] Also if the Local Government desired to "incur considerable expenditure out of its accumulated balances" the proposals were to be sent to the Government of India for separate consideration.[4]

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[1] Para. 14, Resolution of 1897.

[2] Royal Commission on Decentralisation Report, para. 81. Royal Commission on Indian Expenditure Report, p. 10, para 34 (2) : "The Finance Department...considers the estimates with special reference to the rules under which the provinces administer revenue and expenditure, and to the probability of the estimates being realised, but it does not interfere with the discretion of the Provincial Government in details."

[3] Resolution, 17 March 1892, para 11.

[4] Ibid, para. 8.

The Provincial Governments had very wide powers of reappropriation within the budget estimates, but every excess however trifling over the total grant was to be reported to the Government of India. The Central Government exercised a stricter control in this respect during this period.[1] In other directions the powers of the Local Governments were extended. They could sanction temporary appointments and deputations, the cost of which was wholly or partly provincial, up to a period of six months if the remuneration exceeded Rs. 250 a month.[2] They were authorised to grant camp and travelling allowances,[3] and to sanction "petty or moderate increases of establishment subordinate to them, the cost of which is "Imperial" within the budget grant of the year."[4] "An important extension of the scheme of decentralisation was effected by the establishment of the Provincial Loan Account,"

[1] Resolution (Finance) No. 6056, 29 November 1889 modified the rules in order to secure stricter control. The same provisions were repeated in the rules of 1892 and 1897. Again by Resolution (Finance) No. 3162 Ex. of 30 April 1894, the Government of India enjoined strict economy and adherence to the budget estimates. Also, letter to Bengal in January 1895: "the Local Government will recognise its obligation to keep its expenditure during the year within the amounts granted in the Budget orders for the service of the year." (Evidence of Sir H. Waterfield before Indian Expenditure Commission, Q. 811).

[2] Rules sanctioned by the Secretary of State, 24 February 1896. Public Proc. March 1896 No. 347.

[3] Resolution H. D. No. 6003,6 November 1887; Art 1093 of C. S. R.

[4] Resolution (Finance) No. 6055, 29 November 1889.

whereby the Provincial Governments were empowered to grant loans to the local bodies, cultivators and landholders, within a limited amount fixed by the Supreme Government, and subject to the rules made under the various Acts.[1] Further, within the prescribed limits, the Provincial Governments had the liberty to fix stamp rates and excise duty.[2]

Nevertheless, owing to the severe financial strain caused by the fall in exchange, famine and plague, the Supreme Government was compelled to use its powers to the utmost, and thus restrict the exercise of the supposed independence of the Local Governments under the system of "Provincial Contract." Occasionally, it was even constrained to call for contribution from the Provincial Governments in a way that demolished, as was alleged by the Local Governments, the very foundations of the "Contract."[3] On the other hand,

[1] Moral and Material Progress Report 1888-89, p. 29. Resolution (Finance) No. 13, 1 January 1889.

[2] Indian Expenditure Commission, Sir H. Waterfield's Evidence, Q. 261 and 766-8. An instance of delegation of authority is provided by the permission granted to the Chief Commissioner of Burma to dispose finally of petty cases in which the expenditure involved is inconsiderable and in which no standing orders of the Government of India are infringed. Public Proc. November 1891, No. 33.

[3] The Lieutenant Governor of Bengal in a speech in 1890 said: "it must be admitted that, to take a coutribution under any circumstances from a Provincial Government during the period of contract, cuts at the basis on which that contract system is founded."

when the Local Governments were hard hit, it came forward to help them in restoring their administration.[1] Such interposition of the supreme authority was made in the interests of economy or of the solvency of the state for which the Supreme Government was wholly responsible. No doubt there was clamour against restrictions, but the circumstances were exceptional. Till 1898 there does not seem to have been any deliberate effort to diminish the discretion of the Provincial Governments.

Legislation.

No substantial change was introduced by the Indian Council's Act of 1892 in the powers of the Governor General over local legislation. Nor was any alteration made in the executive orders, which limited the freedom of the Local Governments to introduce legislative measures into their councils.[2] Nonetheless, the new Act marked a definite constitutional advance. Political Indian opinion for many years past had demanded the enlargement of the Legislative Councils, the introduction of an elective element, and the extension of the functions of the Councils so as to enable them to discuss the

[1] For example, grants made to Government of N. W. P. in 1897-8. Financial Statement 1897-98, para 62.

[2] Despatch of Secretary of State No. 35, 1 Dec. 1862, re, penal clauses. Despatch of Secretary of State No. 51, 24 Nov. 1863 re, creation of offices. Despatch of Secretary of State No. 9, 31 March 1874, re, previous report to Secretary of State. Confidential Blue Book re, executive rules.

budget and to interpellate the executive.[1] The establishment of representative government was the main plank of the programme of the Indian National Congress.[2] By providing for a larger non-official element, selected by indirect election, and by giving the right of discussing the budget, though not of dividing on it, or passing any resolutions upon it, the British Government effected a marked change in the character of the Indian legislatures. The main purpose of these reforms was to associate Indian gentlemen of experience and ability with the administration so that the various Governments might "be able to shape their course with the advantage of a far more distinct knowledge of the wishes and feelings of the communities with whose interests they may be required to deal than has hitherto been the case."[3] But there could be no possibility of subordinating the executive to the legislature, which explains the very ineffective provisions regarding the discussion of the budget and the rules framed under them. Transference of control over the budget to the Legislative Council would have required a devolution of powers of the Secretary of State and the Government of India to the Local Governments.

[1] See Proceedings of the Sarvajanik Sabha Poona, Mahajana Sabha Madras, British Indian Association and East India Association, Calcutta.

[2] Proceedings of the Indian National Congress, 1885 to 1890.

[3] Lord Dufferin's Minute, quoted in Report on Indian Constitutional Reforms, p. 35.

Financial decentralisation had not as yet nearly reached that point. The result was the absurd formality of discussing budgets already approved by the Governor General in Council and little likely to be modified.[1]

This conclusion is borne out by the practice of making the financial statement in the local council in the month of April after the budget had finally been sanctioned by the Government of India. That Government was not prepared to alter this system. The Government of Madras had requested the Supreme Government to permit it to discuss the financial estimate in January instead of April before the budget was sanctioned by the latter, "so that the advantage of non-official criticism may be available for the estimates of the year."[2] But the Governor General in Council rejected the suggestion with the remark that "it seems to be clearly undesirable that the discussion in council should take place while the budget is still under their consideration."[3] In the circumstances, this power

[1] The Government of India informed the Government of Madras that the main object of permitting the discussion of the budget "is to afford the Local Government information as to the manner in which its financial arrangements are viewed by the most enlightened opinion in the Presidency, and thus to furnish the means, when provision for future years is being considered of meeting objections and removing defects which the discussion may bring to light in its fiscal administration". Letter to Madras No. 1805 H. D. 15 August. 1892.

[2] Letter from Madras to the Government of India No. 237, 6 March 1893.

[3] Letter to Madras No. 679, 17 May 1893.

of the Legislative Council remained wholly ineffective.

The local legislatures passed laws relating to subjects of local concern.[1] Before its introduction every bill in draft was still reviewed by the Government of India under one provision of the law or another. But the practice of previous scrutiny of the Bills seems to have been tightened during this period. The Government of India examined the principles underlying the Bills in order to secure their harmony with its established policy. For example, the Government of Madras could not get permission to amend Act XX of 1863 for the control of Hindu religious endowments in that Presidency so as to remove "widespread and recognised abuses,"[2] because the Supreme Government considered the measure to be opposed to its policy of non-interference by the executive government in religious matters.[3] Very often, even while no objection was taken to the penal clauses, the attention of the Local Government concerned was invited to the other clauses and definite suggestions were made for the improvement of the Bills.[4] The

[1] To the three existing local councils were added those of the North Western Provinces in 1887 and of Burma and the Punjab in 1897, the last two differing from the rest both in constitution and functions.

[2] Letter from Madras to Government of India, No. 73 (Legislative) 26 May 1894.

[3] Letter to Madras No. 1485 (Public) 7 September 1894.

[4] Letter to Bombay No. 1546 (Judicial) 27 September 1888: suggestions for the improvement of the proposed Bill for village sanitation.

need of uniformity in respect of penalties, general outlines and main principles was emphasised in many cases, the tendency being most marked in these years in regard to police and sanitary legislation.[1] The Supreme Government was not prepared to permit any substantial departure from the principles of police organisation as laid down in Act V of 1861 and Act III of 1888 of the Indian Council. Even the re-enactment of these Acts in the local council was recommended.[2]

Perhaps owing to the political importance of the police department, the Government of India's interference was greater in police legislation at this time; and special orders were issued that every police Bill must be submitted for sanction.[3] For

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[1] For instance, suggestions in regard to Madras draft Bill "to provide for the prevention and control of petty nuisances." (Letter to Madras No. 1860 of 27 December 1888.) "In the opinion of the Government of India any marked difference in the penalties for petty offences of the same class in different parts of British India should as far as possible be avoided." Also, Letter to Bombay No. 95 (Police) 18 Feb. 1896, containing remarks on the Bill to amend Bombay District Police Act of 1890. Also, Letter to Bengal No. 508, 23 August 1894. Letter to Bombay, No. 77, 14 February 1889.

[2] Letter to Bombay No. 1712, 9 November 1888 on the draft Bill to amend the law for the regulation of the district police in the Presidency of Bombay. Also Letter to Madras No. 496 (Police) 22nd August 1894. Letter to Madras No. 299 (Police) 2nd May 1895.

[3] Judicial Proceedings No. 289-290 June 1893; Police Proceedings, October 1893.

example, the draft Bills amending section 49 of Act XXIV of 1859 (Madras) and the Bombay District Police Act of 1890, were submitted to the Government of India even though the previous sanction of the Governor General was not required, by the Governments of Madras and Bombay respectively, on account of their "political importance" and because of the previous correspondence with the Government of India.[1] Hardly less vigilance was exhibited in local self-government or sanitary legislation, the purpose being to prevent great variations from province to province in the main principles, as for example in the grant of remuneration to the members of municipalities or in the regulation of the pensions of municipal employees.[2]

Without being dogmatic, it may be stated that the Supreme Government continued to control effectively the course of entire local legislation. Though the Secretary of State in forwarding the

[1] Letter from Bombay No. 358, 25 October 1895. Letter from Madras No. 987 (Judicial) 25 April 1894.

[2] Letter to Bombay No. 159 (Municipal) 18 November 1887, relating to pensions to municipal employees. Letter to N. W. P. No. 2005, 26 December 1891. Letter to Bengal No. 51, 11 April 1892. Municipal Proceedings June 1892 Nos. 1-16; September 1892. Nos. 16-20, 37-39; letter to Bengal No. 85, 27 September 1892. Letter to Madras No. 5 (Municipal) 24 Januray 1894 and previous letter No. 1373 of 8 November 1873; remuneration to members of mufassil municipalities).

statute of 1892 declared its object to be "a more extensive devolution upon provincial councils of the legislative business that particularly concerns the populations with whose needs and circumstances those councils should be specially conversant" owing to the presence of competent non-official members,[1] in practice the superior control does not seem to have been relaxed—indeed, the tendency was in the other direction. With a larger non-official element drawn from the professional classes, the local councils were no longer composed of "mere no bodies,"[2] and discussions became more critical of government measures. The debates influenced the tone of the Indian press and had effect on a growing volume of public opinion. The Government of India desired to avoid giving any opportunity to the political bodies to score against itself. Hence, there was a greater readiness to interfere in local projects of legislation, so much so that the Royal Commission on Decentralisation remarked that "no legislation" can be introduced into these councils by the Local Governments without having been examined by the Government of India."[3] But there was no attempt to trench upon the functions of the provincial Legislative Councils. Generally all measures of a local character were dealt with by them and the Indian Legislative Council avoided

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[1] Despatch of the Secretary of State No. 15 (Legislative) 30 June 1892.

[2] Proceedings of the Indian National Congress, 1886.

[3] R. C. D. Report, p. 15, para 28.

the discussion of purely local subjects, relating to the provinces which had their councils,[1] unless the matter involved some principle.[2]

Administratively, the period from the Viceroyalty of Lord Dufferin to that of Lord Curzon was one

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[1] In 1895, Hon'ble Mr. Mohini Mohan Roy moved a Bill to amend Bengal Regulation VIII of 1819 relating to the rights of patni taluqdars. Mr. MacDonnell and Sir J. Westland opposed it on the ground that it was a local affair which should be dealt with by the Legislative Council of Bengal. (Proceedings of L. C. 14 March 1895 p. 338).

Also in 1896, while introducing the Bill to amend the Excise Act of 1881, Sir J. Westland said that the Indian Legislative Council would not deal with these matters so far as they relate to the bigger provinces of Bengal, Madras and Bombay as they had their own legislation on such matters and whatever legislation was necessary would be undertaken by their Legislative Councils. (Proceedings of L. C. 16 January 1896, p. 25).

[2] For instance, when Bombay Government submitted draft of a Bill to enable the Governor in Council to vest the three Commissioners of divisions in Bombay Presidency with the same powers of a Local Government which he could under Act V of 1868 delegate to Commissioner of Sind, for introduction into the local council, the Government of India had objection to taking by legislation wider powers of delegation than were needed or could be used, and required that a draft specifying the powers necessary to be delegated should be submitted to the Government of India for enactment by the Legislative Council of the Governor General. The Government of India admitted that such a measure would be legally within the powers of the Bombay council, but considering "the importance of the matter, and the fact that the working of many Acts of the Supreme Council may be affected, it will be advisable to adhere to the proceedings followed in 1868 and to carry out the legislation in the council of the Governor General."

(Letter to Bombay No. 656 H. D. 26 March 1896.)

of energetic reform. The system established immediately after the Mutiny was unable to withstand the test of the new standards. Public opinion both in England and India towards the end of the nineteenth century was more critical of existing abuses. The altered situation, too, made administration with the old machinery difficult, if not impossible. Hence the Government of India was constrained to undertake a programme of administrative reform in nearly all the departments of the state.

Administration.

Not much was achieved in the first few years, which were spent in enquiry and experiments. But the Government of Lord Curzon introduced important changes in quick succession. The discovery of defects and the necessity of imposing reforms on an unwilling conservative bureaucracy comprising the Local Governments led to a growing interference by the Government of India with the course of provincial administration. The reforming zeal and desire for thoroughness, so characteristic of Lord Curzon, made him treat the Local Governments as mere agencies of the Government of India, with the result that their discretion was greatly curtailed.

The principles which determined the exercise of control and supervision by the Supreme Government over the Local Governments underwent no change. The former abstained from meddling with detail. Yet there was a remarkable increase in the exercise of supreme control, because the

occasions for defining policy and principles of administrative reform were more frequent. Specially Lord Curzon made such occasions when he found defects or lacunae and felt bound to put them right.

The prevailing tendency may be gathered from a review of the policy of the Government of India in respect of education, local self-government, police and excise etc. In educational matters, for instance, the Government of India prescribed "general principles to be observed" for the guidance of educational administration.[1] It was wont to lay down "general instructions as to the conduct of educational work." In this period, the recommendations of the Education Commission of 1882 were adopted by the Government of India as the basis for its educational policy, and for many years afterwards the Local Governments were exhorted to take action upon one or the other of the proposed reforms.[2] At the same time, owing to financial stringency, the Supreme Government was constrained to restrict the funds devoted to secondary and higher education and emphasise adherence to the principle of gradual withdrawal of government in favour of "local effort and private enterprise," in the management of such

Education.

[1] Evidence of Dr. Giles, Director General of Education, Decentralisation Commission, Vol. X.

[2] Resolution of 23 October 1884 on Education Commission Report; For the subsequent instructions see "Education Progress in India", 1887-1892 by Nash.

institutions.[1] In pressing these measures on their attention, the Government of India often showed a tendency towards rigidity, perhaps "due to misapprehension of local aims and conditions."

The Education Commission had made certain recommendations regarding the enforcement of discipline and moral training in schools and colleges.[2] But action was not taken on them by the Government of India before 1887 when it drew the attention of the Local Governments "to the growth of tendencies unfavourable to discipline and favourable to irreverence in the rising generation in India", and formulated for the consideration of the Local Governments certain suggestions with the "object of counteracting these tendencies." The proposed scheme included provision for physical training, corporal punishment for breaches of discipline, maintenance of good conduct registers, establishment of hostels, and training of teachers to be employed in the schools.[3] The replies of the Local Governments were favourable, and so the Government of India issued final orders on the subject.[4] The Provincial Governments had "felt themselves fettered by want of funds", and so the Supreme

[1] Resolution H. D. (Education) No. 199 of 18th June 1888. This Resolution also emphasised the subject of the training of teachers and moral training of pupils.

[2] Report Education Commission. 1884, pp 190-192, 227-229.

[3] Resolution H. D. Edn. No. 37, 31 December 1887.

[4] Resolution H, D. Edn. No. 6—371-383,17 August 1889,

Government re-emphasised the adoption of the principle that "the expenditure from provincial revenues on government educational institutions should not ordinarily increase in proportion to the total expenditure, but should rather be a constantly diminishing quantity",[1] and pointed out that those recommendations should be carried into effect without "imposing any additional burden on provincial finances" by providing money from local sources or private benevolence, "or by enhancement of fees or by curtailing and readjusting existing expenditure." The instructions on the subject were elaborate and went beyond the mere enunciation of policy.[2]

Further the Supreme Government pressed for the bifurcation of high school studies by instituting a School Final Examination parallel to the University Entrance Examination.[3] It was adopted in many provinces. The Government of India arranged also for a quinquennial review of the progress of education in India.[4] Detailed reports and returns were called for from the Local Governments. The Supreme Government reviewed the consolidated report and made suggestions for improvement.[5] The attention of the individual

[1] Resolution H. D. Edn. No. 199 of 18 June 1888.

[2] Resolution 17 August 1889.

[3] Education Progress in India. Quinquennial Report by Nash 1887-1892. pp. 121-2.

[4] The Quinquennial Review of the Progress of Education in India, Reports published by the Government of India, first published in 1886.

[5] Resolutions published with the Report. First Resolution was H. D. Edn. No. 199, 18 June 1888.

Local Governments was at the same time directed to "cases of failure and delay to carry out" specific recommendations of the Commission.[1] Another object which engaged the attention of the Government of India was the reorganisation of the educational service as a result of the enquiry and report of the Public Service Commission of 1887. A correspondence extending over more than six years ensued on the subject, culminating in the final orders of the Government of India in 1896, on every aspect of this reorganisation.[2] When Lord Curzon became Governor General, he found serious evils existing in the educational system both higher and elementary, and set himself to remove them.[3] An Educational Conference was convened; a Universities Commission was appointed, and finally the Central Government published a Resolution incorporating a detailed programme of educational work for the guidance of the Local Governments.[4] To secure "community of principle and of aim" in the system of education, he appointed

[1] Letter to Madras and other Local Governments, Nos. 294-301 dated 9 August 1888 (Education Proc. September 1888 No. 104).

[2] Papers relating to the Reorganisation of the Educational Service in India from 1891-97. (H. D. Selections). Resolution No. 4/204-215 Edn. 23rd July 1896.

[3] "···The whole subject of education in this country... will, during my term of office have very earnest attention." Speech at the Convocation, Calcutta University, 11 Feb. 1899. Curzon's Speeches, Vol. I, p. 53.

[4] Resolution, 11 March 1904.

a Director-General of Education with the Government of India.[1]

Thus, while the Supreme Government recognised "the desirability and necessity of development in accordance with local needs and conditions," it showed such great activity in prescribing general principles of educational policy during this period and insisting on action being taken on them by the Local Governments, that the latter had cause to complain of centralisation and interference even in the subject of education which they thought "properly appertains to the Local Government and not to the Central Government."

Local Self-Government.

But in respect of local self-governing institutions, the policy of relaxing control continued under Lord Lansdowne and Lord Elgin. The Government of India had retained authorisation of local taxation in its own hands, but it did not generally interfere except when octroi[2] or profession tax was so imposed

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[1] Appointed in 1902. Curzon's speech at the Educational Conference 1901, 2 Sept. Speeches Vol. II p. 315.

[2] Secretary of State required a report on Octroi taxation, "together with a statement of your opinion whether all the abuses brought to notice...have now been satisfactorily dealt with" (Despatch No. 15, 27. 1. 87). The Government of India addressed all the Local Governments asking for report of action taken on the Resolution of 4 Nov. 1888. Letter to Central Provinces No. 87, 22 May 1888.

Letter to Punjab No. 77, 12 August 1889.

as to affect disproportionately the military officers, civil government servants, and the poorer classes.[1] Till 1889, sanction of the Governor General in Council was required for loans to local bodies, but owing to the rules made in that year obviating that course, the number of references to the Supreme Government fell off.[2] Nevertheless, the Government of India occasionally tried to direct the activities of the Municipal and Local Boards to services of public utility which it considered necessary for the country, as is illustrated by the repeated insistence on sanitary measures, particularly in rural areas, both in general Resolutions and letters to particular Local Governments on a review

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Letter to Punjab No. 6, 10 January 1891.

Letter to Bombay No. 83, 26 Sept. 1892; asking Government of Bombay to suspend some Municipal Boards as an example, to secure the adherence of Municipal Boards to orders on Octroi taxation. Municipal Proceedings of the Government of India in H. D. contain a large number of references on this question between 1887 and 1898.

[1] Letter to Madras No. 72, 28 June 1887 on tax on trades and arts; also to N. W. P. No; 76. and to Madras No. 95, 16 June 1888; require the method on which the tax on trades was assessed should be thoroughly overhauled "and its incidence made more equal. His Excellency in Council trusts that measures may at once be taken to secure a proper assessment of the higher classes coupled with the exclusion of the lowest classes from the operation of the tax." Also letters to Madras No. 34 of 10 March, and No. 88 of 15 June 1896, relating to Profession Tax as affecting military officers.

[2] Financial Resolution No. 13, 1 January 1889.

of their reports.[1] For instance, it desired sanitary surveys to be made and in the case of Madras regretted that the amount budgetted for the purpose was allowed to lapse.[2] The Bengal Government was asked to be more active in pushing village sanitation and supply of pure water.[3] For many years the Government of India reviews of the annual reports of the Local Governments had sanitation as their main topic. But all these communications related generally to policy without aiming at any limitation of the discretion of the Local Governments. The control of the Government of India in this department was never very detailed; and it exercised its powers of supervision conferred by law by means of review of annual reports, by

[1] The Municipal Proceedings are full of correspondence and resolutions on the subject of sanitary reforms and plague relief between 1887 and 1898. Some of the important ones are given below:—

Letter to Bombay No. 82 of 22 July 1887.

Letter to Bengal No. 95 of 30 July 1887.

Letter to Madras No. 132, of 24 Sept. 1887 relating to the training of female nurses and promotion of medical education of females. Also improvement of "sanitary surroundings of the rural population of the province is one of gravest interest to the Government of India."

Letter to Bengal No. 2, 15 March 1889; also to Madras No. 10 of 6 June

Letter to N. W. P. No. 13, 11 Feb. 1893 (Vaccination).

Resolution of Government of India H. D. (Sanitary) No. 3/212-225 27 July 1888.

[2] Letter to Madras No. 132, 24 September 1887.

[3] Letter to Bengal No. 2, 15 Mareh 1889 urging the introduction of village unions.

calling for occasional reports and by scrutinising the proceedings of the Local Governments in order to secure conformity to law and general principles.

Law and Order.

But the Government of India had more frequent need of interfering in the administration of jails, police and excise. The importance of these services cannot be doubted, for by reason of their contact with the people evils in them were sure to have serious effects. And at that time, the increase in crime in some provinces coupled with the general corruption and inefficiency of the police, the insanitary conditions in the jails leading to greater convict mortality, and the defective rules of jail discipline, or the varied systems of excise management and growing intemperance of the people, became evils so serious as to lead to agitation.[1] The interposition of the Government of India was necessary and we find measures being taken by it to improve things, from time to time, till the year 1908. The method of enquiry by means of committees and conferences and then the formulation of detailed instructions for the guidance of the Local Governments in general Resolutions, was adopted.[2] The Government of India, as usual,

[1] cf. The resolutions of the Indian National Congress on Police and Excise administration. Also the deputations of the Temperance Society both in England and India to the Secretary of State and the Viceroy respectively. Questions were asked in the House of Commons and papers were asked for on Excise administration in 1889 etc.

[2] As for example the appointment of the Indian Excise Committee under the Resolution (Finance) No. 5001,

asked for reports on progress made, and suggested improvements where defects were revealed. By these means the Supreme Government influenced the working of these services to a greater extent than was considered proper by the Local Governments.

The jail administration had followed the recommendations of the Commission of 1864 which had hoped that each Local Government, while accepting the system in principle would adapt it to local circumstances so as to secure "unity of purpose amid reasonable diversity of practice." But experience showed that the diversity in practice obscured the unity of purpose. Four separate Acts regulating jail administration existed in India. It had developed on divergent lines in the different provinces. To reduce this divergence a Commission was appointed in 1877 but no action was found

Excise dated 7 September 1905, and the Resolutions on the Report of the Committee contained in the Parliamentary Paper entitled Government of India's Orders on Excise Committee Report; order of the Government of India No. 2994 Excise of 16 May 1907. Also improvements suggested or general lines of policy prescribed in respect of exise administration in Circular Letter No. 1925 S. R. 30 April 1896, Letter to N. W. P. No. 4599, 28 October 1896, and No. 4142 Ex. 22 September 1896, to Punjab No. 5006 Ex. 10 November 1807 etc. (Summary of the Measures of the Viceroyalty of Lord Elgin in the Finance Department. 1899 pp. 60-63.) General principles were laid down in the Government of India's Excise despatch No. 29 of 4 February 1890 and Circular Letters to the Local Governments No. 2455 S. R. of 21 April 1904. Jail Commission Report of 1889. Also Police Commission of 1902 and its Report as well as the Resolution on it.

possible on its recommendations.[1] The Government of India had to employ executive orders to secure uniformity, especially in matters of punishment[2] and sanitation, but the success attained was inadequate.[3] Lord Dufferin appointed a Commission in 1888 to go into the question exhaustively. Diversity was considered wrong in principle because it sacrificed "that uniform enforcement of sentences which effective penal administration requires." The Governor General in Council held that "divergencies in regard to the cost of maintaining prisoners, in regard to the sanitary condition and in regard to discipline point to the existence of defects which it is desirable to remove".[4] The Committee recommended enactment of a single Prisons Act for the whole country. The Supreme Government, after discussing the question with the Local Governments, passed the Act in 1894 which defined the jail offences, and prescribed the punishments

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1 Sir Anthony MacDonnell's Speeh on Prisons Act Amendment Bill. Proceedings of the Legislative Council of India 11 January 1894, pp. 17-19.

2 In N. W. P. there were many cases (2142) in which solitary confinement was combined with reduced diet. The Government of India directed that this combined form of punishment should be used only when the offence to be punished was really a serious one. (Moral and Material Progress Report 1887-88 p. 47). Also efforts of the Government of India to secure removal of defects in the existing arrangements for the supervision of female convicts. Ibid p. 48.

3 Sir Anthony MacDonnell's speech. Proceedings of the Legislative Council 1894, pp-15, 23.

4 Resolution H. D. (Jails) 9 October 1888.

for them together with diet, sanitary and disciplinary action.[1] The power to make rules under the law was taken by the Governor General in Council so that uniformity might be assured.[2] When the Bill was being discussed in the Legislative Council, the Lieutenant Governor of Bengal objected to the curtailment of the powers of the Local Government under some clauses, and pointed out the inadvisability of aiming at uniformity in details, such as in the weight of the handcuffs, diet or hours of hard labour.[3] Sir A. MacDonnell in reply assured the Local Governments that there would be no "unnecessary interference on the part of the Supreme Government." He said that the only object was "to coordinate and bring into line all local effort."[4] But this concentration of prison legislation greatly restricted the authority of the Local Governments, for the Supreme Government could now easily regulate even the details of jail administration by means of its rule-making power. It was customary for the Government of India after 1887 to review the jail reports of the different provinces not separately but in one survey which compared the administration of one province with another and issued general directions for the removal of the defects.[5]

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1 Prison Act IX of 1894.

2 Ibid Sec 59; Speech by Sir A. MacDonnell 1894. p. 15.

3 Speech of the Lt. Governor of Bengal. 22 March 1894 (Pro. Leg. pp. 223-26.)

4 Sir A. Mac Donnell's Speech (Pro. Leg. 1894. p. 230)

5 Resolution H. D. Jdl. No. 23/1609-197 October 1887, Resolution H. D. 23rd August 1889.

The police administration also called for constant vigilance and supervision. It is difficult to say that the degree of control was greater during this period, but without the least doubt it may be affirmed that there was no decrease in it. The growth of crime, particularly such as had an inter-provincial organisation, and the greater difficulty experienced "in bringing offenders to justice" led the Government of India to enquire into the whole question of police efficiency and the method of criminal justice. It was of the view that "the chief defect lies in the police." Hence it considered that, "a careful and comprehensive enquiry into the entire police organisation and administration, with a view to the introduction of the necessary improvements would be very desirable."[1] But no Commission was appointed immediately.

By occasional orders the Supreme Government had tried to remove some defects before the Viceroyalty of Lord Curzon. Such instructions related to the emoluments of the lower staff, the improvement of the procedure of criminal courts, the transfers of magistrates and supervision over them by the District Magistrate.[2] Besides, the Government of India maintained a close control over the general police administration. The reorganisation of police establishment apart from

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[1] Letter to Madras and other Local Governments, No. 630 etc. (Police) 23 Dec. 1888.

[2] Letter to N. W. P. No. 377, 17 May 1890 and the other Governments, Circular Letter No. 418-426, 31 May 1890.

financial considerations, was required to conform to prescribed principles, and it was affirmed that the Local Governments had no power "of altering establishments in pursuance of a policy which in its administrative aspect requires the concurrence of the Government of India."[1] Orders were also issued relating to establishment of Reserves[2] and the division between the armed and the unarmed force, its armament, discipline and training.[3] A scale of ammunition was prescribed.[4] A circular letter was sent to the Local Governments regulating the use of ammunition in dispersing riots, and they were made responsible for making such regulations as were necessary to ensure that the fullest warning was given before the police was ordered to fire on the mob.[5] Almost all matters of any importance concerning the preservation of law and order were required to pass under the review of the Government of India.[6] All important cases of crime were required to be reported to it, and it particularly desired to be kept informed of all riots, communal or otherwise. Moreover, it required the rules for the recruitment and examination of the police probationers and Assistant Superintendents to be

[1] Letter to Bombay No; 179, 17 March 1892; Letter to Burma No. 79, 15 February 1894.

[2] Letter to Madras No. 192, 29 March 1889.

[3] Letter to N. W. P. No. 856, 14 December 1889.

[4] Letter to Bengal No. 304, 5 June 1891.

[5] Circular Letter No. 4/426-434 Police, 30 July 1894.

[6] For example Police proceedings 1894.

submitted to it "to ensure that police recruits are uniformly treated in different parts of India."[1]

From the list of the foregoing cases it must be evident that the Government of India did not relax its control over the police administration. On the contrary, because of the growth of crime, the report of the Public Services Commission, and the frequent communal riots, all demanding an all-India policy, the Government of India was called upon to exercise its superintendence and supervision very frequently.

In excise administration, also, the Government of India aimed at uniformity in principles, as public opinion was critical of its excise policy.[2] The attempt during this period was to establish the Central Distillery System as the uniform method of excise revenue collection, in place of the eight different systems which had developed in the various provinces.[3] Moreover, the Supreme Government desired deference being paid "to local public opinion in the matter of licensing liquor shops."[4] When Lord Elgin was Governor General, the Government of India once again sketched the general lines of policy which the Provincial Governments were asked to bear in mind in improving

[1] Letter to Bombay No. 40, 22 January 1892.

[2] See footnote 1 p. 224 ante.

[3] Despatch to Secretary of State No. 29, 4 February 1890 and other papers on excise administration in Supplement to the Gazette of India March 1890; M. M. Prog. Report 1888-89. p. 75.

[4] Circular Letter No. 3686 (Finance) 18 July 1889.

their local excise systems. Definite reforms were pressed in the North Western Provinces, the Punjab and the Central Provinces.[1] The situation did not, however, much improve and Lord Curzon was constrained to re-emphasise the policy of the Government of India in excise matters and to appoint a Committee to examine the excise administration of each province with a view to find out how far it was suited "to give the fullest practical effect to the general policy."[2] Subsequent to the report of the Committee, the Government of India issued orders for carrying into effect its recommendations.[3]

Similarly in respect of famine relief administration, the government of Lord Lansdowne, on important defects being revealed in the working of the Famine Codes issued "full and final instructions on all important points", and arranged for the revision of the Codes in their light.[4] The duties of the Agricultural Department were prescribed and elaborate directions were given regarding the classification of labourers and their minimum

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[1] Summary of the Principal Measures of the Viceroyalty of Lord Elgin in the Finance Department. 1899 (Official Report) pp. 60-63.

[2] Resolution No. 5001. Exc., 7 September 1905; Excise Committee Report. 1906.

[3] Resolution No. 2994 Exc. 16 May 1907, and other Resolutions published in Parliamentary Paper entitled Government of India's Orders on Excise Committee Report. 1907.

[4] Summary of the Principal Measures during the Viceroyalty of Lord Lansdowne in the Department of Revenue and Agriculture, pp. 6-7.

wage.[1] So also, the Government of India, in its desire to remove the evils associated with temporary settlement of land revenue, had to issue "injunctions" to some of the Local Governments forbidding an elaborate classification of soils for the purpose of assessment at every fresh settlement. In the North Western Provinces, Sir Charles Crosthwaite accepted the principle by which land revenue was to rise "automatically with the rise in rentals without the periodical inquisition entailed by regular settlements." For the Punjab the principles upon which the assessments should be made were prescribed. The Government of India realised the injury caused by rigidity of the system of collecting land revenue, and tried to introduce elasticity, but without much success.[2] Further, Lord Lansdowne urged on the Governments of Madras and Central Provinces to improve the law regulating the relations of the landlord and the tenant, as the policy of the Government of India was to give the latter protection from the inequities of the landlord.[3]

Political opinion in the country was often inclined to associate the frequency of famine conditions with the land revenue policy of the government.[4] Lord

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[1] Circular Letter No. 63-770. 19 December 1889.
Resolution (Rev.) Letter No. 25-1, 10 Sept. 1891.
Resolution (Rev.) Letter No. 6-44, 17 March 1892.
Despatch to Secretary of State No. 2, 3 January 1894.

[2] Summary of the Principal Measures during the Viceroyalty of Lord Lansdowne, pp. 13-17.

[3] Ibid, paras 44-45.

[4] The papers and writings of Mr. R. C. Dutt particularly.

Curzon therefore issued an elaborate Resolution in 1902 rebutting the charges, and at the same time, clearly explaining the policy of the Government of India for the guidance of the Local Governments.[1]

The only matter of importance which engaged the attention of the Government of India in the judicial administration was the jury system.[2] Earlier, the Local Governments had been authorised to extend the system to particular offences or localities at their discretion. In its effort to reduce crime, the Supreme Government resolved on restricting the scope of the jury system both as regards offences and territories. The Local Governments were asked to exclude cases of murder and cuplable homicide from the cognizance of the juries and to withdraw the system of jury trial from undeveloped districts. The list of offences as adopted in Madras or the North Western Provinces was commended to the Government of Bombay. The Governments of Bengal and Assam were prompt in giving effect to these instructions, which led to public agitation. Memorials were sent to the Secretary of State who took the matter under his

[1] Resolution No. 1, 16 January 1902.

[2] Judicial Proceedings, January 1893 Nos. 272-428

Letter to Madras No. 1105, 25 August 1892

Letter to Bombay No. 1106, 25 August 1892, and to other Local Governments.

Despatch to Secretary of State No. 32 (Jdl.) 21 Dec. 1892.

Despatch to Secretary of State No. 1 (Jdl.) 4 Jan. 1893.

consideration.[1] But this case provides an instance of how the Government of India interfered with the discretion conferred by law on the Local Government, in its desire to secure uniformity throughout the country. In respect of the judiciary otherwise there was no change in its control during this period.

It was customary for the Local Governments to forward information to the Supreme Government regarding matters of political or administrative importance, but generally it was despatched sometime after the occurrence, and contained an account of the action taken by the government concerned. The Government of India regarded it as essential that news relating to such matters should reach it "at the earliest moment, since it is undesirable that the Governor General in Council should remain in ignorance of important events until they become generally known, while it may at any time become necessary for His Excellency in Council to take action in view of the possibility of their affecting a neighbouring province or Native State." Hence the Local Governments were asked in 1897 to instruct their local officers "to despatch direct to the Government of India duplicates of the telegrams in which they report

[1] For instance, the memorial presented to the Secretary of State by the inhabitants of Calcutta under the Chairmanship of Maharaja Durga Charan Law on 23 December 1892. Also other memorials sent from Bengal. See Judicial Proceedings January 1893 Nos. 272-428.

matters of importance to the Local Government." Also the Local Government was requested to send a summary of its orders and action taken upon them to the Government of India.[1] The Local Governments protested and the order was modified to the effect that the Commissioners of the divisions should despatch such telegrams.[2] The administrative supervision of the Government of India was further strengthened by it. Also the determination of policy in matters of political significance as for instance the regulations under the Arms Act[3] or the rules relating to cow-killing in any town,[4] could not be left entirely to the

[1] Circular Letter H. D. Public No. 1432-41, 24 August 1897.

[2] Telegram to N. W. P. No. 1939, 17 Sept. 1897.

Letter from Madras No. 1465, 10 November 1897, and reply thereto No. 2702 of 30 December 1897. Also that order was repeated by Lord Curzon. Speech in the Legislative Council by Lord Curzon on 18 Sept. 1903. Proceedings, pp. 193-4.

[3] Letter to Bombay No. 1309, 31 July 1894 in reply to Bombay Letter No. 3406 of 15 May 1894.

"The Policy of the Government of India has hitherto been to refrain from any general amendment of the rules under the Arms Act, and they have adopted this policy owing to two considerations, viz. firstly that the rules do not at present press hardly on any class of people, and secondly that it is desirable to avoid bringing them unnecessarily under public discussion." The Indian National Congress passed every year a resolution on Arms Act.

Also letter to Madras No. 1552. 31 May 1892; Letter to Madras No. 560, 21 March 1889.

[4] Riot at Rohtak. Letter to the Punjab No. 218 H. D. 12 March 1890. (Police Proc. March 1890, No. 96).

Local Governments, and so the Supreme Government did not permit any alteration in such rules without its previous sanction. Moreover, the recruitment of the Indians to the public services or the adoption of the recommendations of the Public Services Commission into practice, was carefully watched by the Government of India.[1]

Character of Central Control.

The character of the central control may be gathered from the foregoing narrative. The Government of India exercised its superintending authority to lay down the general principles and secure adherence of the provincial administration to its policy so outlined. There was no doubt a disposition to leave the details to the discretion of the Provincial Governments and for that purpose their legal and administrative powers were strengthened from time to time. Wider sanctioning authority in financial matters was conceded. Their authority under the different legislative enactments was enhanced. The tendency which had begun earlier, of relinquishing control in favour of the Local Governments over the various

[1] Notification No. 2159. H. D. 2 November 1892; Letter to Madras No. 2194, 10 November 1892 and to other Local Governments also, containing instructions regarding appointments to Provincial services; Letter to Bombay No. 336, 11 March 1895; Public Proc. September 1895 Nos. 154-159. Also Circular Letter No. 1369-73 dated 13 September 1895; Letters relating to Madras Provincial Civil Service (Public Proc. June 1896. Nos. 181-182), also rules relating to Judicial branch. Judicial Proceedings January 1893 Nos. 91-93.

operations enjoined by law, subject, in certain cases only to "the previous sanction" or "the general control" of the Governor General in Council, was continued. Thus we find full authority being bestowed even in the making of rules under the Acts in respect of municipal administration,[1] Court of Wards or Government management of Private Estates,[2] and subject to the general control or the previous sanction of the Governor General in Council in respect of police administration,[3] excise,[4] jails,[5] sale of petroleum[6] and poisons[7] etc. Owing to this change, the frequency of references was greatly reduced. Nevertheless, the exercise of the constitutional authority of general supervision, the necessity of determining the policy of the state, and the frequent occurrence of natural calamities, financial stringency and serious political situations, brought into greater play the exercise of control by the Supreme Government giving an impression of the curtailment of the liberty of the Provincial Governments. It cannot be doubted that the Government of India sincerely

[1] For example, C. P. Village Sanitation Act. No. XI of 1902; C. P. Municipalities Act No. XVIII of 1889.

[2] Government management of Private Estates Act No. X of 1892. Sec. 7.

[3] Police Act III of 1888 and the Police Amendment Act VIII of 1895.

[4] Excise Act XII of 1894. Sections 12,14 and 19.

[5] Prisons Act IX of 1894. Sections 59 and 60 (General control).

[6] Petroleum Act VIII of 1899, Sec. 9.

[7] Poisons Act I of 1894. Sec. 2,5 and 6.

desired to extend the system of "decentralisation" in matter of detail, but no appreciable progress was effected during this period in that direction. A further development of that principle was checked because of many important factors which were working at the time.

Causes retarding further progress of decentralisation.

Mention has been made before of the financial difficulties of the government which compelled the supreme authority to insist on economy and thus restrict the freedom of the Local Governments to incur expenditure out of the provincial revenues. Further, the greater activity exhibited in improving the administrative system and bringing it into conformity with the general policy of the government led to constant enquiries by the Supreme Government and the prescribing of the main lines for the guidance of the Provincial Governments. It was impossible for the Government of India to leave them uncontrolled for its aim at the time was to secure as much uniformity as feasible. The growth of education and the facility of communication had broken the barriers between distant provinces. A common standard of ideas, customs and manners was developing in the country. There was not much difference between an educated Tamil of the south and an educated Punjabi or Bengali of the north. The press had made it easier for the educated to know what was happening in the other parts of the country. The grievances of one province or one district could easily become the grievances

of another. A solidarity of interest and feeling was coming into being which was greatly helped by the birth of the Indian National Congress. In this disposition of public opinion, the Government of India could not tolerate one set of principles in one province and a different one in another. Barring the backward tracts, uniform progress in administration was not only desirable but essential for the wakefulness of the press, and the public opinion could easily agitate even over local shortcomings. Besides, local matters led often to petitions, memorials, resolutions and public meetings and interpellations in the councils. Even in England, the Opposition would occasionally put questions or move for papers in the House of Commons. This watchfulness of the public opinion both in India and England encouraged the intervention of the Government of India in provincial administration. The non-official opinion regarded the provincial administration with suspicion and looked to the Central Government for reform, desiring often that the latter should enforce its views on the Local Governments. Mr. D. E. Wacha speaking at the seventeenth Congress "devoutly hoped that the beneficent intentions and instructions of the Government of India with regard to famine will everywhere be followed with scrupulous care and faithfulness." He feared that the Local Governments, left to themselves, would "economise expenditure to a dangerously narrow limit." Hence he wished "this tendency on the part of the subordinate administrations...to be carefully watched

and checked, as, if unwatched and uncontrolled from above, it is prolific of the greatest mischief to the starving population."[1] These remarks were characteristic of the period. The repeated visitations of famine and plague also made it necessary for the Government of India to step in to provide adequate relief. Thus we find that owing to the above mentioned factors during this period the Supreme Government was constrained to exercise its authority both financial and administrative to an extent which seemed to be incompatible with financial decentralisation.

The direction in which progress could be made: Schemes for financial readjustment. 1888-1897.

A feeling, however, was growing up that decentralisation in finance should be pushed a stage further. The Local Governments were dissatisfied with the quinquennial settlements and were vehemently opposed to the revisions in favour of the Central Government.[2] They chafed under the restrictions imposed on their authority both financial and administrative. Hence, to improve matters they suggested a permanent division of revenues and expenditure between the supreme and the subordinate governments so that the latter could have an uninterrupted use of the provincial revenues. Continuity and certainty were pointed out as the advantages of the proposed

[1] Proc. Indian National Congress 1901. pp. 32-33 Presidential Address.

[2] Bannerji, pp. 116-117.

measure. They desired also the removal of limitations under the various Codes on their power. By 1897 the defects of periodical revision of the contract became too glaring, and so a definite permanent contract was suggested as a remedy.[1] Non-official opinion, too, advocated the same.[2] From the very beginning, Indian politicians favoured financially autonomous Local Governments and were generally guided in their view by the scheme proposed by Mr. John Bright. When after the second Afghan War, owing to the Russian menace the military expenditure of the Government of India was increasing from year to year even at the sacrifice of internal progress, Indian politicians realised that the only method of checking it and of providing money for education, local development, sanitation and other such services was by separating the provincial revenues from the central revenues, and making the Local Governments free to regulate their budget subject to the control of the local Legislative Councils.[3] This view had strengthened by the end of the century and we find more or less uniform proposals emerging from the various political organisations in the country at the time of the Indian Expenditure Commission enquiry. The Indian National Congress, for the first time passed a resolution in 1896 to the effect that "the

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[1] Bannerji, p. 117; Financial Secretary's memorndum 1904.

[2] Proc. Indian National Congress 1896.

[3] Proceedings Indian National Congress 1886. p. 99, and 1902. pp. 50-51 etc.

allotments made to the Provincial Governments........ are inadequate, and that in view of the revision of the Quinquennial Provincial Contract, which is to take place in 1897, the time has arrived when a further step should be taken in the matter of financial decentralisation, by leaving the responsibility of the financial administration of the different provinces principally to the Local Governments, the Supreme Government receiving from each Local Government only a fixed contribution levied in accordance with some definite and equitable principle, which should not be liable to any disturbance during the currency of the period of contract, so as to secure to Local Governments that fiscal certainty and that advantage arising from the normal expansion of the revenues which are so essential to all real progress in the development of the resources and the satisfactory administration of the different provinces."[1]

Mr. Gokhale elaborated it further and presented a scheme to the Indian Expenditure Commission, which was based on the recommendations of some members of Lord Dufferin's Finance Committee of 1886. He pointed out that the people were "more interested in provincial than in Imperial expenditure;" The former being "intimately connected with the well-being of the people." He opposed the revision of the contract as it gave "more to the Government of India to spend on items like the army etc." He found three defects in the

[1] Resolution No. IV of the Indian National Congress 1896.

existing system of contract, viz. that it was one-sided, that it was not based on any fixed principle in regard to the burden it imposed on the different provinces and lastly that while operating as a check on the growth of provincial expenditure, it imposed no similar restraint upon the Government of India. His scheme contemplated a definite and exclusive division of revenue and expenditure between Imperial and provincial, so that the "divided heads" should be wholly removed. As the revenues from Imperial heads would not be sufficient for the needs of the Supreme Government, the excess of expenditure should be the first charge on the provincial revenues, being met out of the provincial surplus. The future growth of revenues he proposed to divide equally between the two. He claimed that this scheme would remove irritation, secure administrative progress, and equitable distribution and impose a check on the "spending propensities of the Government of India." Also that the Indian financial system would be placed on a sound basis and would come "in line with the federal systems of finance in other countries, e. g. Germany, Canada and the United States of America."[1] Another, witness, Mr. D. E. Wacha suggested the same method as that of the Indian National Congress namely that all the revenues collected should be provincial out of which a fixed proportion should be given by each province to the Supreme Government. He held that virtually each

[1] Mr. Gokhale's evidence. Expenditure Commission, Q 18036-18136.

province "was, as it were, a small kingdom by itself" and should be allowed to "work out its own financial salvation." The advantage claimed was that it would restrict the expenditure of the Supreme Government "on objects of doubtful utility."[1] Further, it was felt that the purpose of the decentralisation scheme was to establish a federation in India, and so the local budget should be left entirely to the local Legislative Council.[2]

Non-official opinion favoured the system of separation of resources and fixed contributions by the Provincial Governments to the Government of India as the only method which could strengthen the former and provide scope for the development of the country.[3] The rigid financial control by the Government of India was considered to be injurious, as under the existing system "the people (of the province)...cannot...expect that the share of the fruits of their labour.........might in the first instance be applied to their well-being."[4] The way out of it, according to them, was to free the Local Governments to spend their separated revenues under the control of the Legislative Councils which should be enlarged and be composed of the

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[1] Mr. D. E. Wacha's evidence. Expenditure Commission Q 17260.

[2] Mr. S. N. Bannerji's evidence. Expenditure Commission, Q 19233-4.

[3] See speeches of Messrs Bhuskute, and Sayani in 1896 and Mr. Sri Ram from 1899 to 1902 in the Budget debates. Also Elliot's evidence before the Expenditure Commission.

[4] Mr. Ananda Charlu's speech. Budget debate 1896.

representatives of the people. There is no explicit mention of "Provincial Autonomy" at this time, but the suggestions regarding the separation of provincial finance, its relief from control by the Government of India, and the legislative freedom of the provincial Legislative Councils, coupled with the demand for partial responsibility of the executive to representative bodies manifest a hazy vision of it. The general notion was that as the Provincial Governments carried on largely the administration of the country uncontrolled, they should be given financial and legislative freedom subject to the supervision of their Legislative Councils.

On the other hand, for different reasons, the Government of India and the Secretary of State also considered a change in the system necessary. Owing to the financial difficulties in which the Central Government was then placed, the Secretary of State examined and reviewed the financial relations between the Imperial and the Provincial Governments in 1888, and "pointed out the inequality of the existing arrangements which secure freedom from financial difficulties to the Local Governments, while the Imperial Government may be passing through a phase of acute embarrassment."[1] He considered the artificial protection of the Local Governments by means of the Provincial Contracts as undesirable and thought that they "should be expected to manage their finances....according to the varying requirements of the time." Therefore he

Despatch from Secretary of State, 12 April 1888.

desired that the normal arrangements made with them should be modified from time to time to meet the requirements of the Imperial treasury. On the receipt of the despatch, the prospects being very gloomy, proposals were made to the Local Governments which would have changed the Provincial Contracts into "permanent arrangements."[1] These were to come into effect from 1 April 1889. This scheme was designed to devolve on the Local Governments the duty of finding funds, by local taxation or otherwise, for purely local needs, such as education, sanitation and roads and buildings. Local revenue and expenditure were to be entirely separated from the general account. Then, it was provided to hand over to each Provincial Government "the whole civil Revenues and Expenditure of each Province.........on the condition that after the items which are of a local character are eliminated, a certain percentage of the net revenue should be retained for Provincial expenditure, and the balance credited to the Imperial Account, to meet the General Expenditure of the Empire." The provincial resources were to consist of all the revenues which the Local Governments then received either wholly or partly. The proportion of the provincial expenditure to the total provincialised revenue was to be calculated and "the adjustment

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[1] Summary of the Principal Measures of the Viceroyalty of Lord Dufferin in the Department of Finance and Commerce, Vol. IV. p. 45.

fixed on the resulting proportion." The growth of the Imperial demands could be met by an alteration of the percentage of the yield to the Imperial account. These percentages were to be fixed on the net revenues only. Such a contract was to be "not for a term of five years only" but "a continuous one, subject to revision from time to time according to the necessities of Imperial expenditure."[1]

But no action was taken on these proposals. Later, when the Governments of Bombay, Madras and Bengal protested against the very principle of the Provincial Contract in 1897, the matter was taken up by the Supreme Government. That Government submitted a scheme to the Secretary of State, "for making the three most important Local Governments (Bombay, Madras and Bengal) responsible for providing for large increases of local expenditure by local taxation."[2] This scheme also contemplated the division of the expenditure on the civil administration, provided out of the general revenues, into two classes, the "general" and the "local," including in the latter category such items as roads and communications, educational and medical expenditure and grants for municipal purposes ect. For this "local" expenditure a specified share of the povincial revenue was to be finally and definitely

[1] Summary of the Principal Measures of the Viceroyalty of Lord Dufferin in the Department of Finance and Commerce. Vol. IV pp. 42-7.

[2] Summary of the Principal Measures of the Viceroyalty of Lord Elgin in the Department of Finance and Commerce, p. 36.

fixed, no regard being paid to it in future contract revisions.[1] In other respects it fell far short of the proposals made in 1888. The Secretary of State agreed that the proposals should be placed before the Local Governments, but he doubted the policy of imposing too absolute a check on the further growth of expenditure classed as local.[2] Both the above schemes had their origin in the financial difficulties of the Government of India and aimed at restricting expenditure on subjects like education, sanitation etc, which were considered to be local. Also they envisaged the abolition of the periodical revision as that led both to bickerings and to extravagance and waste. The earlier proposal was perhaps influenced by the views of that group of administrators who desired ultimately to separate central and provincial resources. However, no action was taken on them immediately.

Lord Curzon and Decentralisation. Quasi-permanent Settlement.

Lord Curzon took the next step in the provincialisation of finances. There was no secret about the views of the Local Governments, some of which had constantly objected to the existing contracts.[3] Non-official opinion too was on their side. Consequently

[1] Despatch to Secretary of State No. 68, 3 March 1898.

[2] Despatch from Secretary of State No. 125 of 28 July 1898.

[3] Cf. Lord Curzon's speech at the Chamber of Commerce, Madras, 11 Dec. 1900 where he said that the Governor of Madras had addressed letters to him on the subject. Speeches, Vol. II. pp. 160-1.

after discussion with the Secretary of State, Lord Curzon's Government decided to make the settlement quasi-permanent. A series of surplus years made the task easy.[1] The Supreme Government found that the method of quinquennial revision had three grave defects, firstly that it interfered with the continuity of provincial finance and involved protracted discussion with the Local Governments; secondly that the system encouraged extravagance rather than economy, and thirdly that the apportionment of revenue to the several provinces had never been made on any definite or logical principle. It was just "a system of five year budgets." Hence to remove these shortcomings, and "to introduce an element of relative permanence into the settlements," it was decided to give to the "Provincial Governments a permanent instead of a merely temporary interest in the revenue and expenditure under their control." The proportion of provincial expenditure to the total expenditure was calculated and on that basis the revenues were adjusted between the Imperial and the Provincial Governments. The proportion generally was three to one, but a larger share was assigned to the backward provinces.[2] The division of the heads of revenue and expenditure into three categories as established in 1882 was continued. The only improvements were that ample resources were given to the Local Governments which should

[1] Surplus budgets from 1897 to 1904.

[2] Financial Statement 1904-1905. Memorandum by the Finance Secretary.

be adequate for their needs, and that the settlement was not subject to revision at any fixed period. No doubt, the Government of India reserved the power "to revise the settlement of any or all provinces at any time whenever necessity may demand it." The intention of that government, however, was "only to exercise this power when the variations from the initial relative standards of revenue and expenditure in any province have, over a substantial term of years, been so great as to result in unfairness either to the province itself, to other provinces, or to the Government of India or in the event of the Government of India being confronted with the alternatives of either imposing additional taxation or of seeking assistance from the provinces."[1] As such it was comparatively permanent. Between the years 1904 and 1907 such settlements were made with all the Provincial Governments.[2]

The principle on which these adjustments were made did not differ substantially from those of the earlier contracts. The financial system of India was still regarded as one whole and assignments were made to the Provincial Governments for allocated expenditure. The restrictions on their financial discretion were still maintained. There was no near approach to the scheme suggested in

[1] Financial Statement 1904-1905.

[2] In 1904-5 settlements were made with the provinces of Bengal, Madras, Assam and the United Provinces; in 1905-6 with Bombay and the Punjab, from 1 April 1906 with the Central Provinces, and from 1 April 1907 with Burma, Ambedkar, pp. 123-128; Thomas, Federal Finance, pp. 262-4.

1888 or to the proposals of the non-officials or certain Local Governments. The two were fundamentally different, for while one considered the provincial revenues as assignments from the Imperial fisc, the other contemplated the contribution of revenues from the provincial resources to the Imperial fisc. Even so, the progress was remarkable and the measure was received with satisfaction. But it is doubtful whether it led to further decentralisation, despite Lord Curzon's affirmation that "these new settlements constitute, in my view, the most important step in the nature of decentralisation that has been adopted for many years, and will, I hope, be the forerunner of others in the future."[1] Nevertheless they laid the foundations of a steadily developing financial autonomy which enabled the Local Governments later to undertake enterprises from which they were formerly debarred.[2]

Tightening of administrative control under Lord Curzon.

In other respects the Viceroyalty of Lord Curzon saw the tightening of the central control. He aimed at efficiency of administration, so that the machine of government in the various provinces should run "at a becoming rate." On his arrival he found that "the engines have not been going at much more than half-speed," and gradual deterioration had set in.[3] So he outlined

[1] Curzon's Budget speech 1904. Proceedings Legislative Council 1904, p. 238.

[2] Ibid.

[3] Curzon's Budget Speech 1902. Speeches, Vol. II p. 200.

a programme of administrative reform comprehending almost every aspect of government.[1] And during his government he strove hard to execute it undeterred by opposition from within or agitation from without. He pressed his measures of reform on the Local Governments, did not stop merely at enunciating general principles, but gave definite detailed instructions and provided funds from the surplus of the Supreme Government for "the fresh burst of activity." His characteristic way of doing things is well expressed in one of his statements though, no doubt, it represents an extreme case. Referring to his orders on the writing of reports, he said that the Resolutions were "pious generalisations and academic counsels of perfection." Hence he sent "deflnite orders, in each case, prescribing the manner of compilation and the limits of length" and added "we are thus thinning the forest not by a general order to reduce the amount of

[1] Also in his speech at Guildhall, London, on 20 July, 1904, he said "Epochs arise in the history of every country when the administrative machinery requires to be taken to pieces and overhauled, and readjusted to the altered necessities or the growing demands of the hour. The engines are not working to their scheduled capacity, the engineers are perhaps slack or overborne. I agree with those who inscribe on their administrative banners the motto "Efficiency." But my conception of efficiency is to practise as well as to preach it. It is with this object that we have conducted an inquiry in India into every aspect of the administration." Then he enumerated his work; viz. to frame a plague policy, a famine policy, an educational policy, a railway policy, an irrigation policy and a police policy. Speeches, Vol. IV. p. 13. Budget speeches 1901; Ronaldshay, Vol. II, p. 165.

superfluous timber that it contains, but by ringing every tree in it that ought either to be lopped or to be cut down, and by sending in the woodmen with axes to perform the task."[1] This procedure was followed in all cases. Various Commissions of enquiry pointed out the defects and recommended measures for improvement.[2] The Government of India outlined its general policy in the Resolutions, and then the Local Governments were separately addressed "on points where doubt exists, or where the local practice does not appear to be in accordance with the principles laid down...with a view to ensuring conformity in the future."[3] Finally the Imperial inspecting agency acted like "woodmen with axes." This happened to the police, excise, land revenue, education and various major and minor departments of the state. The recommendations of the Police Commission, the Education Commission, or the Excise Committee became the bases for future reconstruction, and every Local Government was required to adapt its administration accordingly. Any objection on the ground of financial difficulty was hushed by a policy of "doles" from the central revenues for specific purposes, and the Governor

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[1] Curzon's Speeches, Vol. I. p. 318.

[2] For example Police Commission of 1902, the Indian Excise Committee, Universities Commission, Sir C. S. Moncrieff's Commission on Irrigation etc.

[3] Curzon's Budget speech 1902. Speeches, Vol. II p. 207.

General took care that the funds so assigned were not diverted to other purposes.[1] An agency for the coordination of work in the various provinces was created by the appointment of many Inspectors General for different departments.[2] The orders relating to famine relief and the land revenue policy particularly respecting remission of revenue in times of scarcity were pressed on the Local Governments.[3]

Lord Curzon desired to have all the strings of administration in his hands and insisted on information on every important matter being forwarded to the Supreme Government.[4] He found that the Governments of Madras and Bombay ignored the Central Government and acted like "the petty kings of those dominions....even unconscious that responsibility attaches to anyone but themselves."[5] Lord Sandhurst, the Governor of

[1] Grants were made to the Local Governments of 40 lakhs for education, 32 lakhs for public works, and 18 lakhs for medical arrangements etc. in 1902-3 (Financial Statement 1902-3). Also 50 lakhs for police reforms in accordance with the recommendations of the Police Commission, an additional 35 lakhs for primary education and 20 lakhs for agricultural research etc., in 1905-6 (Financial Statement 1905-1906). Remarks by Mr. Baker. Gazette of India, March 25, 1905, Pt. VI. pp. 45-6

[2] The following were appointed after 1901:—Sanitary Commissioner, Director General of Education, Inspectors General of Agriculture, Irrigation and Excise and Salt. R. C. D. Vol. I p. 136.

[3] Resolution (Revenue & Agriculture) 25 March 1905 Gazette of India supplement 1 April 1905 pp. 735-42.

[4] Buchan; Lord Minto, p. 215.

[5] Letter from the Viceroy to the Secretary of State dated 17 May 1899, Ronaldshay II p. 56

Bombay, failed to inform the Governor General of a strike of signallers on the Great Indian Peninsular Railway in 1899, about which the latter learnt from the press;[1] and did not take the Government of India into confidence in the matter of the detention of Natu brothers without trial.[2] The Governor of Madras did not communicate with the Viceroy for many months after his arrival in India and while sending information about the Queen's statue being tarred in June 1899 made no mention of the "serious succession of outbreaks" in the Tinnevally district.[3] The Governor General was naturally furious. Such omissions were a violation of earlier orders, and as such there is some truth in his remark that "I know far less of what is going on in Madras than I do of what is passing in Egypt or France, and as for the supposed responsibility of the Viceroy, it has long ago vanished in thin air."[4]

It must be admitted that the Presidency Governments had consistently used their right of direct correspondence with the Secretary of State to flout the authority of the Central Government. Lord Curzon's Government also protested against this anomaly and in a despatch to the Secretary of State recommended, as had been done before, without success, drastic measures for dealing with

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[1] Ronaldshay II p. 56.

[2] Ibid. p. 57.

[3] Curzon's letter to the Secretary of State, 14 June 1899. Ronaldshay II pp. 57-8

[4] Ronaldshay II p. 57.

it. Like Lord Lytton, he desired that the two Presidency Governments should be placed "on precisely the same footing as the other major provinces," and wanted the abolition of their Executive Councils, and their right of direct correspondence.[1] But the British Cabinet would not be persuaded. The Viceroy had no patience with the arguments and opposition of the provincial chiefs. He wrote to the Secretary of State, "I cannot work a government under this system. I cannot spend hours in wordy argument with my Lieutenant Governors as to the exact meaning, purport, scope, object, character, possible limitations, conceivable results of each petty aspect of my frontier policy. If they deliberately refuse to understand it and haggle and boggle about carrying it out, I must get some fairly intelligent officer who will understand what I mean and do what I say."[2] In other words, he wanted the Provincial Governments to act merely as executive agents of the Supreme Government. No wonder then that the Finance Member clearly though bluntly reminded the Local Governments of their position

[1] Despatch to Secretary of State, 28 Sept. 1899 (Ronaldshay Vol. II p. 57). The Executive Councils were characterised "as unjustifiable extravagance; the trappings of their rulers as unnecessary luxury; the right which they enjoyed of corresponding direct with the Secretary of State behind the back of the Viceroy as anomalous and mischievous pretension."

[2] Letter to Secretary of State 16 Nov, 1899 (Ronaldshay II, p. 132).

as mere agents.[1] They should have no hand in framing the policy but must carry it into effect, as is illustrated in the case of the separation of the North West Frontier Province from the Punjab despite the vehement opposition of Sir Macworth Young, the Lieutenant Governor of the Punjab.[2]

Position under Lord Curzon.

Lord Curzon's Government held that the Government of India represented both authority as well as responsibility—"responsibility for the proper use of its authority which follows from the very possession of that authority—a responsibility which it would be abrogating its highest duty if it did not discharge it to the full. It is true that it delegates authority to the Local Governments, but it delegates that authority subject to its own control, and it is essential to the due discharge of its responsibility that it should exercise that control wherever it considers that a case is made out for its exercise."[3] On this assumption. under him the interference of the Government of India was considerable, leading to outcry against centralisation. It is true that according to the definition of Lord Curzon, there could be no centralisation as there was "no absorption by a central body of powers or privileges hitherto enjoyed, or capable, if created, of being

[1] Sir Edward Law's speech in the Budget debate of 1902. Proceedings of the Legislative Council 1902. p 196.

[2] Ronaldshay II, pp. 136-140.

[3] Sir Denizel Ibbetson in University Bill debate. Proc. Legislative Council 1904, p. 150.

exercised by subordinate bodies," for the legal and constitutional powers of the Supreme Government remained unabated and gave it complete supremacy.[1] Lord Curzon believed in no "lax or sluggish control, or in the abdication of powers which have been provided for special objects."[2] The result was the enforcement of the legal authority leading necessarily to the curtailment of customary discretion. Decentralisation consistent with efficiency he was willing to concede. But he was not prepared to leave the provincial authorities uncontrolled. The needs of administrative improvement and the altered political situation assisted him in that object. He was a believer in benevolent despotism and in his Indian philosophy there could be no room for popular institutions. When every effort was being made to concentrate all the aspects of administration under official control, it was quite natural that the Central Government should maintain an effective supervision over the local authorities in the discharge of its responsibility to the Secretary of State and the Parliament. Under Lord Curzon's regime the theory of financial decentralisation coupled with administrative and legal supremacy of the Government of India had full play. Effective centralisation reached its climax and exhibited clearly the futility of the hope of securing decentralisation, local or provincial, under the existing constitutional system.

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[1] Curzon's Budget speech 1904. Proc. Legislative Council 1904. p, 546.

[2] Curzon's speech in Budget debate 1904. p. 546.

CHAPTER VI.

DECENTRALISATION COMMISSION AND AFTER

Review of the position at the end of Lord Curzon's Viceroyalty.

The Viceroyalty of Lord Curzon saw the height of reaction which had its beginning in the financial difficulties of the previous years. The control by the Supreme Government tightened again so that it became "coextensive with the whole sphere of the operations of the Provincial Governments."[1] No doubt the chief motive of the Government of India in this was to lay down general principles, leaving to the Local Governments their adaptation to local circumstances. But it was difficult always to respect this division, for often, owing to special circumstances, mere details involved matters of principle important enough to call for the interposition of the Government of India and the Secretary of State. Further, as has been discussed before, greater vigilance of public opinion, and considerations of administrative efficiency led to an increased supervision and control by the Government of India. All those circumstances which according to the Royal Commission on Decentralisation, tend to centralisation, had full play at the time.[2] The

[1] Bombay Government Note. R. C. D. VIII. Appendix II.

[2] R. C. D. para. 47.

facility of rapid communication, the "growth of solidarity and of national feeling among the educated classes in the various provinces," the greater interest taken by the Parliament in Indian affairs and the demand for a higher standard of administration as a consequence of closer contact with the rest of the world, all these factors operated towards that end at the beginning of this century.

Moreover, Lord Curzon had made a fetish of efficiency for which he was ready to sacrifice everything. Instructions were issued to the Provincial Governments for reorganisation in almost every department of administration, and closely and incessantly did the Supreme Government watch their enforcement. Subordinate authorities became mere parts of a well organised machine. The Provincial Governments became mere agents of the Government of India. There was little room for non-official collaboration, and public criticism had no prospect of being heeded. The result was the establishment of an efficient but rigid system of administration accompanied by dissatisfaction in the Provincial Governments and political agitation in the country.

The Government of India had the immediate direction of certain subjects like foreign affairs, defence, general taxation, debt, tariffs, posts and telegraphs, railways and accounts and auditing, while ordinary internal administration was carried on by the Provincial Governments. But even in the latter the Government of India exercised a general and constant control, which was not confined to

prescribing general principles but extended to testing "their application from administration reports and returns."[1] The financial Codes and the Civil Service Regulations, "the general resolutions on questions of policy issued for the guidance" of the Local Governments, particular instructions on matters attracting the notice of the Government of India, the right of hearing appeals against the orders of the Provincial Governments and the occasional reports of the Inspectors-General or committees of enquiry were the means by which the Government of India controlled provincial administration.[2] Also, the budget restrictions and the natural desire of the Government of India to control the employment of the "doles" contributed by it to Local Governments made its "control effective over many departments, primarily the concern of the Local Governments."[3] The budgetary rules, and the regulations relating to the creation of offices, grant of salaries, allowances and pensions, as embodied in the Civil Account Code or the Civil Service Regulations, limited the financial independence of the Provincial Governments and brought important matters even of detail under the review of the Supreme Government.

The policy relating to the various administrative departments was laid down by the Governor General in Council. The desire to secure uniformity

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1 R. C. D. paras. 42-4.

2 R. C. D. paras 50-51.

3 R. C. D. Vol. VIII. Appendix II. Bombay Government Note.

often led the Government of India to regulate matters of detail even in departments like education or medical. In the public works department, the Government of India was primarily responsible for accounting and auditing and the allocation of funds for irrigation and other projects out of the Imperial revenues or borrowed money. It also required the Provincial Governments to submit estimates and plans of certain classes of work. The Supreme Government, besides, prescribed the general organisation of the provincial public works departments and appointed in most provinces the superior staff as well.[1] So also in the forest department, except in Madras and Bombay, the chief officers were appointed by the Supreme Government. Moreover, that government exercised control over forest administration by means of general resolutions on forest policy, the Forest Code and financial rules restricting authority of the Local Governments.[2] The same course may be traced in other departments under the management of the Provincial Governments.

An important development tending to centralisation had been the establishment of Inspector-Generalships with the Government of India to supervise some of the departments. There were fourteen such officers in 1908, of which nine were appointed in Curzon's time or later.[3] Their

[1] R. C. D. paras. 198-9.
[2] Ibid, Chapter VI, para. 288 etc.,
[3] R. C. D. Vol. I. p 136; Vol. VIII. Appendix II, Bombay Government Note.

function was to help the Government of India with specialised knowledge, to give advice and information to the Local Governments when necessary and "to bring the experience of one province to bear upon the problems of another so as to secure such coordination as may be possible, of the system of the different provinces." It was expected that they would not interfere in local administration and would not correspond officially with the local officers.[1] But in a few cases an attempt was made to break through this reservation.[2] The Provincial Governments feared that, unless properly limited, they would encroach upon them and weaken their control over their officers.[3] The Government of India, on the other hand, considered them to be necessary owing to the greater "specialisation of administrative business" and to the necessity of possessing knowledge of provincial administration in various departments which did not otherwise reach it directly from the Local Governments owing, as

[1] R. C. D. Vol. VIII, Appendix II. Bombay Government Note; R. C. D. Vol. I para 389, also paras 185, 205, 319, 328, 352, 354, 370 and 382 for the functions of the various Imperial officers. Also Resolution 8 September 1904 and Circular Letter No. 17-60-6 dated 24th October 1901.

[2] For Example, G. O. Nos. 1893-1894 Judicial, 17 November 1906; Madras Government Memorandum R. C. D. Vol. II Appendix, para 22; for some concrete instances see the Note by the Lieutenant Governor of United Provinces. R. C. D. Vol. VIII. App. II para 10.

[3] R. C. D. Vol. I para 393; Vol. II Appendix, Vol. VIII Appendix II; Bradley's evidence. Q. 1036, and Mr. Forbes Q. 8679. R. C. D. Vol. II.

it alleged, to increasing decentralisation.[1] The Inspectors-General were, nevertheless, gradually developing into agents of centralisation.

Causes of the need for further decentralisation.

One result of this enlargement of the scope of supervision by the Central Government was an increase in the amount of work in the Secretariat of the Government of India. It was heaviest in the Home Department, whose correspondence had doubled between 1891 and 1902.[2] One reason assigned for this increase of work was the need for watchful supervision of provincial administration so as to prevent the "disregard of standing orders or accepted principles."[3] On this ground Lord Curzon's Government was constrained to ask the Secretary of State for additional staff in the Home Department in 1903. The Secretary of State agreed that the immediate result of the "active enquiry" into every branch of administration pursued by the Government of India should lead

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[1] Risely. Q. 45394. R. C. D. Vol. X.

[2] In 1891 the number of letters issued from and received into the Home Department was 25,456 and in 1902 it was 49,266. (Government of India's Despatch No. 64 (Finance), 12 March 1903) R. C. D. Vol. X. Appendix XIV. Also between 1898 and 1906 there had been an increase from 39,965 to 45,094. Government of India's Despatch 9 May 1907, Appendix.

[3] Despatch to Secretary of State No. 64 (Finance) 12 March 1903. In 1891 Lord Cross had emphasised the importance of checking the growth of work by delegating authority to subordinate boards and officers. Despatch No. 215, 15 November 1891 and No. 128, 2 July 1891.

to increase in work in the Home Department, but hoped that it would decrease "as the Local Governments gradually become habituated to the changes which have been made." He deprecated interference with the "initiative and responsibility" of the Provincial Governments and desired a detailed examination of the correspondence with a view to prevent departure from the principle of decentralisation.[1] This increase of staff was sanctioned for a period of three years.

Seeing no prospect of the diminution of work, Lord Minto asked for the permanent retention of the additional staff in the Home Department. On an analysis of the work in the different branches he found that the work had increased in eight of them, was stationary in three and decreasing in the other three. This, he pointed out, resulted from the improvement of communications, the development of the country, the use of specialised technical agency in different departments, and the reluctance of the Indian legislature "to confer powers on Local Governments except subject to the previous sanction of the Government of India." He denied any attempt on the part of the Central Government to "usurp powers which would be legitimately exercised by lower authority." He said there was "no desire to interfere with their responsibility or with their power of initiative," but as a rule suggestions of reform emanated from the Government of India

[1] Secretary of State's despatch No. 55 (Public) 15 May 1903.

which should therefore possess "the custody of principles and the enforcement of such uniformity as may be found requisite." He deprecated the use of the term "centralisation" for this policy which he described as "partly the successful adaptation of administrative means to an end, partly as the exercise of legitimate and necessary control." Nevertheless he admitted that the references from the Provincial Governments "under financial rules for creation of posts or increase of salary beyond a limit" were inconsistent with the wide powers exercised by the Local Governments "under the existing system of provincial settlements," and suggested that "the limits should be placed at higher figures than the existing standards, which date back to the experimental stage."[1]

It was now coming to be realised that every official, whether in the districts or at headquarters, was overburdened with correspondence and had too little time for coming into contact with the people and initiating measures for local improvement. This may have resulted in a growing alienation between the rulers and the ruled. Such a possibility is always injurious to the interests of foreign governments, but at the time, it was more so in India because of the demand for increased participation of the people in the administration of the country. The political movement had taken a new turn which brought extremist opinions to the

[1] Despatch to Secretary of State No. 19 of 9th May 1907.

front for the time being. Reaction against some administrative measures of Lord Curzon found expression in a serious agitation for reform, and even moderate opinion was compelled to veer round and adopt self-government as its goal.[1] The enlargment of the Legislative Councils and their powers so as to secure the responsibility, even though partial, of the executive to the representatives of the people was immediately demanded. "The problem with which the Government of India was confronted in 1906 was...serious. It was the assertion of a political awakening," and it would have been dangerous to ignore it. Discerning this change, Lord Minto "decided that the time had come for a further extension of representative principles in our administration," and set to working out a scheme for the satisfaction of the aspirations of the people.[2]

Thus two threads were spinning simultaneously, one the necessity of relieving the Central Government of a mass of detailed work and second the importance of assigning a larger share to the people in the administration of the country. Both were interconnected, for in the existing situation, constitutional advance was not practicable without

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[1] The Resolution of the Indian National Congress on Self-Government in 1905.

[2] Lord Minto's farewell dinner speech at the United Service Club, 1910. (Speeches by Minto. pp. 412-13).

Also see Buchan's Lord Minto, and Lady Minto's, Minto and Morley, for an account of the inception of the reform scheme. The first hint occurred in a letter of Mr. Morley dated 15th June 1906. (Buchan p. 233.)

an extension of the process of decentralisation in administration. If the provincial Legislative Councils were to be entrusted with powers of controlling the budget and of influencing administration, it was essential that the superior control over the Provincial Governments should be correspondingly relaxed. The same was true of local self-government. Also it was recognised that devolution of powers to the Local Governments and local authorities could not be effected without substituting popular control for the control of the Government of India and the Secretary of State. This consideration had heretofore prevented any substantial enhancement of the authority of the Local Governments, for the Government of India regarded with apprehension the grant of political power to the representatives of the people. But during the Viceroyalty of Lord Minto, a moderate and regulated advance was made in that direction which smoothed the process of decentralisation as well. The Secretary of State and the Government of India tackled the dual problem then by appointing the first commission of enquiry on the question of decentralisation and enacting what is known as the Minto-Morley Reform scheme.

The appointment of the Royal Commission on Decentralisation.

In the course of the budget debate in March 1907, Sir Steyning Edgerley (representing the Bombay Government) drawing attention to the evils of centralisation pressed "for decided action in the direction of decentralisation," and suggested that "a strong committee be

appointed to work out a scheme of devolution of financial and other departmental control."[1] His remarks found little echo in the speeches of the other members, but the Home Member, Sir Harvey Adamson, and the Finance Member, Mr. Baker, welcomed the suggestion and informed the house that the subject was already under the consideration of the Government of India.[2] Mr. Baker went further and said that the Secretary of State had been addressed "in the hope of obtaining an extension of our own financial powers, and if our proposals are sanctioned, it is our intention to pass on a corresponding increase of power to the Local Governments."[3] While the Government of India

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[1] Proceedings of the Legislative Council of India, 27 March 1907, pp. 93—5.; Principal Measures of the Viceroyalty of Lord Minto in the Finance Department. p. 141.

[2] Proceedings of the Legislative Council of India 1907, p. 181, and pp. 197-8.

[3] In 1906 (Despatch No. 53 (Finance) 18th May) the Secretary of State expressed his readiness to consider any proposals to increase the financial powers of the Government of India in the matter of establishments. The Government of India asked for the following (Despatch No. 17 (Financial) 24 January 1907):—

(*a*) the increase of the limit on the total expenditure on single schemes for revision of establishment from Rs. 25,000 to 50,000

(*b*) the increase of the limit on the salaries which may be attached to new appointments created without reference to the Secretary of State from Rs. 3,000 to Rs 5,000 a year.

(*c*) the increase of the limit on salaries which the Government of India may enhance without reference to the Secretary of State from Rs 5,000 to Rs. 9,000 a year.

was, however, considering the suggestion "the Home Government determined to appoint a Royal Commission to report on the advisability of a larger degree of decentralisation in the civil administration of British India."[1] We do not know the considerations which prompted Lord Morley to take this step; for the correspondence on the subject has not yet seen the light of day.[2]

Terms of reference.

The terms of reference of the Royal Commission on Decentralisation were "to consider the relations now existing, for financial and administrative purposes, between the Government of India and the Provincial Governments, and between the Provincial Governments and the authorities subordinate to them; and to report whether, by measures of

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(*d*) the extension of the period upto which the Government of India may sanction temporary appointments and deputations without reference to the Secretary of State from 12 months to 24 months.

The proposals were sanctioned (Despatch No. 170 (Finance) 2 August 1907) with the modification that the enhanced powers under (b) and (c) were not to be exercised in the case of the gazetted officers recruited in England. (Principal Measures of the Viceroyalty of Lord Minto in the Finance Department, p. 141).

[1] Principal Measures of Lord Minto. Finance. p. 142.

[2] Buchan writes that the "Commission had been the result of a suggestion of Minto's made early in 1907 as an alternative to Mr. Morley's dangerous proposal of a Parliamentary enquiry into Indian affairs. It soon became a pet scheme of the Secretary of State." Buchan. p. 265. Morley hinted about such a Parliamentary committee in his letter to Minto of 30 November 1906. Rcollections. Vol. II. p. 194.

decentralisation or otherwise, these relations can be simplified and improved, and the system of government can be better adapted to meet the requirements and promote the welfare of the different provinces, and (without impairing its strength and unity) to bring the executive power into closer touch with local conditions."[1] The Commission collected a mass of evidence, official and non-official, and submitted its report in February 1909. Meanwhile the Secretary of State made a statement on 17th December 1908 relating to the policy of the British Government in regard to the constitutional reform in India. It is difficult to say how far that policy was affected by the recommendations of the Commission, which had, however been furnished to the Secretary of State beforehand.[2]

Analysis of its evidence.

The entire evidence may be classified into three categories; that tendered by the Provincial Governments, by the Government of India and by the non-official Indians. Each Provincial Government submitted a note on the general position and deputed its officers to supplement the information given therein. The tale which they related is one long narrative of control exercised by the Central Government. Their complaints related to financial restrictions, to the statutory and legal provisions requiring the

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[1] Report R. C. D. para. I.

[2] Report R. C. D. para 6.

sanction of the Government of India to specific measures, and to its administrative control.[1] Every one of them had something to say against the regulations contained in the Codes like the Civil Account Code, Civil Service Regulations, Famine Code and the Public Works Department Code.[2] The Bombay Government, however, most vehemently condemned all control which fettered the discretion of the Local Government in any manner. The Governor in Council thought "that exercise of control in all details tends to paralyse the Local Governments, and deprives them of all sense of responsibility." He indicated that the Central Government was "not competent to deal with multifarious conditions of different provinces," and in its attempt to "ignore discordant elements and to prescribe uniform systems to which everything must be forced to conform", it was simply adopting the "Procrustean method" which "must ultimately fail, because the local conditions will not permit of being cut to standard shape." He attributed "popular discontent" to this centralising tendency of the Government of India.[3] It was said that

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[1] For example, Bombay Government's note. R. C. D. Vol. VII Appendix II; Mr. Lamb's evidence Q 32067, Note by Lt. Governor of Burma. R. C. D. Vol III. Appendix II.

[2] For example, Mr. Gait's (Chief Secretary to the Bengal Government) statement. R. C. D. Vol. IV; Note by the Lt. Governor, U. P., R., C. D. Vol. VII. para 4.

[3] R. C. D. Vol. VIII. Appendix II.

owing to the necessity of obtaining the sanction of the Government of India, important measures of administrative reform were delayed, involving serious injury to the public service and dissatisfaction among the people.[1] The Local Governments criticised the institution of the Imperial Officers, also, and objected to certain recent orders which implied interference by them with the provincial administration.[2] In short, the Provincial Governments held that the Government of India exercised a close control over every aspect of their administration, that this control was inconsistent with the financial arrangements made with them, and that in spite of measures of decentralisation, it was still sufficient to cripple their initiative and freedom.

The Government of India, on the other hand, stated that it generally followed the practice of leaving matters to the Local Government after laying down general policy. But that this principle was subject to some necessary limitations, as in cases where the Government of India provided money it exercised control over details so that it might be able to examine the necessity of the

[1] Bombay Government Note, R. C. D. Vol. VIII, Appendix XII (p. 230). Mr. Lamb's Evidence Q. 32067. Vol. VIII.

[2] R. C. D. Vol. III. Appendix II; Vol. II Appendix; Vol. VII Appendix II. U. P. Government objected to the orders of the Government of India of 21 September 1907 relating to the correspondence. between the Sanitary Commissioner of the Government of India and the provincial departments. Bradley Q 1036-1053. Vol. II

required expenditure; or when for administrative reasons uniformity was desirable throughout the country as in the enforcement of uniform conditions of service. Also it thought it essential to scrutinise details where commercial interests were affected or international obligations were involved. So also in the case of shipping, penal law and jail manufactures.[1] It was also stated that the Government of India generally dealt with matters of policy, but it was difficult to draw a line between questions of policy and matters of detail as had been drawn in the federal constitutions, for the Provincial Governments were not sovereign states but had been assigned only some functions by a surrender from the Supreme Government which retained the residuary authority in its own hands.[2] The Financial Secretary submitted also that, in financial matters, "there must be control from above or below," and as "we have no control at present from below in the sense of an electorate hence control from above must be retained."[3] The Government of India disclaimed any disposition to interfere with the legitimate activities of the Provincial Governments, and justified its supervision and control under the existing constitutional position.

The non-official evidence is of little value on the point of facts, for they had no knowledge about

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[1] Risley. Vol. X. Q. 45390.

[2] Risley. Vol. X. Q. 45460-69.

[3] Meston. Vol. X Q. 45250.

the actual working of the government. But they had an apprehension that the financial restrictions upon the authority of the Local Governments deprived the latter of facilities to improve the country in their charge.[1]

Proposals put forward before the Commission for future direction.

In their proposals for reform, too, the same diversity is visible. All were agreed that some measure of decentralisation was not only desirable but necessary. The Government of India, however, considered that the grant of the same financial powers as it possessed itself, to the Local Governments would meet the situation satisfactorily. It did not deem essential a radical revision of the financial codes so as to confer on them wider powers in respect of pensions, allowances or budgetary modifications. It was not prepared to forego its right of superintendence and control for as long as the Indian governments were responsible to the Parliament the Supreme Government must not only lay down general principles but also supervise their application to particular cases. Subject to this limitation the Government of India desired to enhance the authority of the Provincial Governments so as to avoid its interference in matters of detail. It could not, as well, accept any scheme for a complete separation of finances, and deprecated the grant of the power of taxation

1 Rai Sri Ram Bahadur Q. 29515. R. C. D. Vol. VII; B. N. Basu Q. 18075. Vol. IV. etc.

to the Local Governments without its previous sanction.[1]

The suggestions of the Provincial Governments, though not uniform, embraced a wider concession of authority to themselves in almost every sphere of administration. Mostly, they related to specific restrictions imposed by the Civil Account Code, Civil Service Regulations, or diverse legal provisions. Every Local Government pointed to the spot where the shoe pinched and wanted relief through the abrogation of particular orders or regulations. For instance, the Lieutenant Governor of Burma proposed enlarged powers to the Local Governments for dealing with questions of "detail in matters

1. R. C. D. Vol. X. Specially evidence of Risley and Meston.

Mr. Risley stated that the theory was that the Government of India dealt with matters of policy but often a particular detail might involve a principle, requiring its intervention. He said that it was not easy to apply the theory in practice. Q. 45464-69.

Mr. Meston stated that separation of resources would not be advantageous "unless accompanied by a revolutionary change in the fiscal system." But it was not possible in the existing circumstances. He did not favour the grant of the powers of taxing to the Local Governments owing to the absence of any popular control. "Until a popular element has been introduced into the Indian constitution, and has been invested with effective control over at least some part of the fiscal system, there are grave objections to increasing in any way the existing facilities for improving provincial taxation." He did not object to the principle of separation of finance but said that the Government of India found it impossible to devise any scheme unattended by evils. Q. 44866.

connected with forest reservation, the levy of duty on forest produce etc.," or for making mining rules, or sanctioning the inception of settlements and the necessary establishments therefor, or for sanctioning such petty items as the issue of warm clothing and water-proof capes, and free rations etc. to the men of the military police, or for filling certain classes of appointments which had been taken out of his control by the executive orders of the Government of India.[1] Proposals were also made for delegating powers to the Local Government (except Madras and Bombay) in respect of appointments in the public works department, its reorganisation, with powers of sanction for both works and contracts.[2]

The Madras Government desired authority to sanction pensions in some cases in which restrictions were imposed by the Civil Service Regulations.[3] That Government also suggested the conferring of wider powers in the matter of the alienation of land and land revenue.[4] The list of the alterations demanded for enhancing the authority of the Local Governments was long and comprised the removal of minute restrictions, financial and administrative,

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[1] R. C. D. Vol. III, Appendix II. Note by the Lieutenant Governor of Burma.

[2]. Ibid. Also Madras Government memorandum Vol. II

[3] R. C. D. Vol. II Appendix II, Madras Government Memo. Desired alteration to Article 4, 168,357,422,475 and 642 of the Civil Service Regulations; Bradley Q. 137.

[4] R. C. D. Vol. II Appendix II, para 31.

which were embodied in the financial codes or enactments and statutory rules.[1]

The Provincial Governments, moreover, discussed the theory which should determine the control by the Government of India over them. They accepted the right of the latter to lay down general policy, but once the principles were defined, they desired a free hand in applying that policy to particular cases, or in cases "where no questions of principle are involved."[2] Mr. Streatfield, Officiating Secretary of Bengal, said "that the Local Governments should be trusted to work out details, and criticism on points of detail should be confined to suggestions which the Local Government should be at liberty to accept or reject after considering all the circumstances."[3] This opinion fairly represented the views of the Provincial Governments.

The Government of Bombay, however, submitted a scheme which aimed at "a definition of functions that can with greatest advantage be exercised by a Central Government, and those that can be entrusted

[1] See Schedule I, II, III to the Report. R. C. D. Vol. I. pp. 312-337, for a classified list of the proposed alterations to the Civil Service Regulations, Civil Account Code and the different Acts of the Indian legislatures. Bengal letter to Commission, R. C. D. Vol IV Appendix II; Mr. Gait, Chief Secretary of Bengal. Vol. IV.

[2] Mr. Streatfield Q. 14709; Mr. Gait Q. 14445; Mr. Oldham. Q. 14844; Mr. Bradley. Q. 1223-32; Bombay Government Note Vol. VIII. Appendix II. Part III.; Mr. Lamb Q. 32067. Vol. VIII.

[3] R. C. D. Vol. IV Q. 14709.

to the local administrations." The functions of the Imperial Government were to be defined and were to be such as might be of a general character affecting the whole country. Then "all functions not centralised" were to be fully within the control of the Provincial Governments. "In these departments the Local Government should be subject to control not exceeding that exercised by the Secretary of State over the Government of India." Further, it envisaged the removal of restrictions on the powers of the local legislatures, which "should have full power and responsibility to legislate" on all subjects within the cognizance of the Local Government, including those affecting the jurisdiction of the High Courts. The local legislatures, moreover, should have liberty of framing their rules for the conduct of business, "the discussion of the budget and the nomination of additional members," subject to the general principles determined by the "Central Authority." In respect of financial powers, the scheme was comprehensive. Though it ruled out the immediate practicability of "complete financial autonomy of the Local Governments," it provided for "decentralisation of expenditure between the Local Government and the Government of India after the provision has been made for the requirements of the former" by allocating sufficient revenues. "Within the limits of the fund allotted," the Provincial Governments would be free to administer their departments and would not be subject to any control by the Government of India either in framing their budget or in regulating

questions of pay, allowances etc. We understand from the evidence of Mr. Lamb, Chief Secretary to the Government of Bombay, that this proposal involved the separation of revenues and expenditure by the abolition of the 'divided heads', and introduction of a "fixed assignment from provincial to imperial instead of from imperial to provincial." The budget of the provincial heads was to be debated and settled in the local council and should not be "liable to alteration by the Government of India." The power of taxation and borrowing was also to be given to them.[1]

The justification of such a far reaching scheme was the proposed "measure for conferring a representative character upon Provincial Governments." The Government of Bombay was perfectly correct in its estimate that unless the development of representative institutions in the provinces was "accompanied by decentralisation of administrative powers," there could not be a possibility of administration coming "more into touch with native sentiment," without which political agitation would not cease.[2] If the proposed constitutional reforms were to be a reality, it was essential that the superior governments should devolve authority on the subordinate agencies. The right of discussing the provincial budget, unless

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1. R. C. D. Vol. VIII. Appendix II. Part III. Bombay Government's Note. Mr. Lamb. Q 32067. Vol. VIII.

2 R. C. D. Vol. VIII. Appendix II.

it was intended to be a farce, implied that the Government of India should, to that extent, relax its control over the Local Governments. But as the reforms did not in any great measure bring the executive government under the control of the legislature, it was not possible to accept these proposals for financial decentralisation.

Non-official Indians naturally associated enhancement of the powers of the Local Governments with the introduction of popular control, for otherwise they feared that withdrawal of the superintendence of the Government of India would make provincial administration more official and reactionary. To Mr. Gokhale, "mere official control, imperfectly exercised from a long distance is better than no control, and I certainly have no wish to see petty despotisms pure and simple, set up in place of the present Provincial Governments."[1]

His opinion was generally shared by the political Indian public.[2] Nevertheless, the non-officials favoured decentralisation and the financial freedom of the Provincial Governments, if "a proper and effective control by the public opinion of the province" could be secured. They wished to have

[1] R. C. D. Vol. VIII. Q. 33489.

[2] See evidence of Rai Kishori Lal Goswami Q. 15378, 15474; Maharaja of Cossimbazar, Vol. IV; Babu Moti Lal Ghosh Q. 18398; Babu Ambica Charan Mazumdar was for no relaxation to the bureaucratic governments. Q. 19143. Also see Mr. R. N. Mudholkar's Presidential Address to the Indian National Congress 1912 (Proceedings, p. 18.)

the seat of final authority in the province itself, but on condition that a "real voice in the conduct of provincial affairs" was to be given to the "popular representatives." It was frankly admitted that without decentralisation, financial and administrative, there could be no scope for the development of responsible government.[1]

Mr. Gokhale in his evidence submitted his scheme, which was same as in 1896, for the complete separation of sources of revenue coupled with contribution from provincial revenues to the Imperial Government. According to his scheme the administration and control of general subjects like postal department and railways as well as general taxation and general legislation was to be placed in the Government of India and the "rest of the internal administration of the country" in the Provincial Governments, which should be free from all interference in matters of detail. However, he considered it necessary that "large questions of policy even in regard to the internal administration of the country, should be reserved by the Government of India in its hands, so as to ensure a general, but not rigid, uniformity of administration in the different provinces, as also to initiate reforms, which, if left merely to Local Governments, may not be taken in hand."[2]

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[1] Mr. Gokhale Q. 33489; Mr. B. N. Sarma Q. 9497: Rai Sri Ram Bahadur Q. 29515; B. Ganga Prasad Varma Q. 29634; Also Pt. Malviya's Presidential Address at the 24th Indian National Congress, Lahore 1909 (Proceedings p. 35)

[2] R. C. D. Vol. VIII Q. 33489.

Non-official opinion did not trust the Local Governments, particularly such as may be termed 'one man administrations.' It is remarkable that in Bengal generally the feeling was against the extension of the authority of the Local Government, though it favoured the separation of Imperial and provincial finance.[1] On the whole, the non-official witnesses were prepared for "greater elasticity and greater autonomy in the action of the Provincial Government", but viewed with apprehension any move which might free the latter from superior control without substituting the check of public opinion as represented in the local Legislative Council.

Recommendations of the Commission and their character.

The Royal Commission thus had before it the considered opinion of the Local Governments and the non-officials that the exercise of its legal powers by the Central Government often cramped the initiative of the subordinate governments and led to unnecessary correspondence and increase of work. Frankly it was stated that the administration had become over centralised. The remedy proposed was a further delegation of powers so that the Local Governments should be free in the determination of details within the framework of general policy adumbrated by the Supreme Government. The Commission also learnt

[1] See evidence of Rai Kishori Lal Goswami. Babu Ambica Charan Mazumdar, Babu Moti Lal Ghosh, Babu Bhupendra Nath Basu etc. R. C. D. Vol. IV.

that decentralisation unaccompanied by transfer of power to the representatives of the people would be distasteful to the latter. Further, it had the views of the Government of India which took its stand on its legal and constitutional powers and justified its controlling authority in the interest of uniformity of administration and responsibility to the Secretary of State. Even its financial control was defended on the ground of stability and solvency of the Indian Empire. The problem before the Commission was to secure such adjustment of powers as might reconcile these mutually conflicting interests. But its terms of reference did not empower it to suggest alterations in the constitutional position. The result was that the recommendations were halting and touched merely minor matters of detail. The Commission, however, recognised that larger financial decentralisation would be possible when the scope of the Legislative Councils was enlarged.[1]

Impressed by the necessity for uniformity of system, the Commission recommended that the "Provincial Governments should be subject in all respects to the general control of the Government of India," but that "the future policy should be directed to the enlargement of the spheres of detailed administration entrusted" to them.[2] Though they were satisfied with the existing financial relations, yet they suggested a greater fixity of

[1] R. C. D. Vol I, paras 87, 99, 122 and 130.
[2] R. C. D. Vol. I paras 46 and 49.

settlements, substitution of a growing share of revenues in place of fixed assignments, and the increase of financial powers of the Local Governments to the same extent as had been given to the Government of India in 1907 in respect of appointments, allowances, reorganisation of establishments etc.[1] In case the provincial Legislative Councils obtained an effective control over provincial finance, they were prepared to commit the "more distinct sources of revenue" to the Provincial Governments with greater control over the budget, power of taxation and more latitude in regard to appointments and establishments.[2] They recommended the revision of the Civil Service Regulations and the Civil Account Code so as to free the Local Governments from unnecessary trammels on their authority.[3] In respect of public works department, forest, excise and land revenue some enhancement of powers was suggested.[4] So also in the matter of police and medical service, they thought that the Government of India should limit its control to the "prescription of general principles and lines of policy" leaving all other matters to the Local Governments.[5] The abolition of the Imperial

[1] R. C. D. Vol. I paras 67, 71, 120, 123, 129, 133-5; 125-128.

[2] R. C. D. Vol. I. Paras 72, 87, 99, 122, 130 and 133.

[3] Ibid I. Paras 155-158, 169.

[4] Ibid I. Paras 210-2, 206, 208, 210, 1214, 220, 223; 292, 305—315; 186; 245, 249, 252-5, 259.

[5] Ibid I, Paras 349-51; 377, 379, 384.

Officers was not proposed but they were required to be merely advisory officers of the Government of India.[1]

The effect of the Minto-Morley Reforms.

Shortly before the publication of the Report of the Royal Commission, Lord Morley made a statement,[2] based on earlier correspondence[3] between the Government of India and the Secretary of State, outlining the scheme of constitutional reforms which the Government was prepared to concede. A Bill was later introduced and passed by Parliament, providing among other important subjects for the expansion of the Legislative Councils. The Legislative Councils, provincial and Imperial, were to be

[1] R. C. D. Vol, I. Paras 395-404.

The recommendations of the Decentralisation Commission did not provoke much comment as the public attention was drawn to the reform scheme then on the anvil. Non-officials, moreover, were not competent to criticise it owing to the technical character of many suggestions. Nevertheless, a section of Indian Press criticised their rejection of the demand of the Local Governments for separation of resources and desired that adequate revenues should be placed with the Local Governments as they were responsible for the well-being and advancement of the people. For example Hindustan Review, May and June 1909. pp 560-4. The Pioneer however stood for complete centralisation. Pioneer. 29 March 1909.

[2] 17 December 1908 in the House of Lords. Indian Speeches by Viscont Morley. pp. 75-98.

[3] Despatches from the Government of India dated 24 August 1907 and dated March 1908 and the reply of the Secretary of State.

enlarged so as to provide for a substantial non-official element in them, and the extension of the powers of the legislature over the budget and the administrative measures of the government.[1] But there was no intention of establishing a system of responsible government. The only purpose was to give to the Councils "increased facilities for expressing views upon the budget" at an early stage so that, if desirable, effect could be given to the suggestions tendered there. "The ultimate control," as the Government of India put it "must, however, rest with the government and no useful purpose would be served by affecting to ignore this essential fact."[2] The Councils could not divide on the budget, and their resolutions, whether on financial or administrative matters had merely a recommendatory effect. However, even this partial development had its influence on the subsequent relationship between the Central and the Provincial Governments.

The Government of India proposed a scheme for the discussion of the budget in the local Councils which was accepted by the Secretary of State. According to it, the function of the Council was to

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[1] Lord Morley wrote, "the main object of our proposals was to give the Legislative Councils a more truly representative character, among other means by increasing their numbers, by substituting election for nomination in constructing them, and by a liberal extension of their freedom of discussion." Recollections Vol. II. p. 160.

[2] Despatch from the Government of India to the Secretary of State. March 1908.

assist the Provincial Government "to keep the demands of its departments within its estimated revenue" and help it in preparing a part of the budget. The method adopted was to divide the provincial budget in two parts, "the second dealing with purely Imperial major heads and the first with provincial and divided heads of revenue and expenditure." In part one, there was provision for an "unallotted grant" of considerable dimensions. When the Government of India had determined the maximum amount of provincial expenditure, the figures were communicated to the Local Government. The Standing Finance Committee of the local Legislative Council, which was to consist of six officials and an equal number of non-officials, then met and discussed the distribution of the grant to various provincial services. This allotment was subsequently submitted to the Government of India for incorporation in the Imperial estimates. When the Central Government had accepted the second provincial estimate thus framed, the budget was placed before the Committee of the whole Council, and discussion held on it. In the light of this debate, changes and reappropriations, if necessary, were to be made by the Local Government, provided the maximum amount was not exceeded without tne sanction of the Government of India. Finally the budget was presented to the Council for debate, but neither could resolutions be passed nor votes be taken on it.[1] The result of this procedure was

[1] Reform despatch of the Government of India. No. 21 (Public) 1 October 1908.

that the detailed examination by the Government of India in the allotment of funds for provincial services was eliminated, and the Local Government was free to determine the expenditure on provincial heads with the advice of the Legislative Council. No doubt, the Government of India had rarely interfered with these figures before, but now it desired to abstain from it absolutely. It fixed the limit of provincial expenditure under each 'major' head and reviewed the estimates of revenue but that was only for the purpose of approximating, as correctly as possible, the estimates to actual expenditure. This arrangement of 1908-9 relaxed the control further.[1]

The Government of India hoped that by adopting this procedure, the Legislative Councils would acquire "a reasonable share in the settlement of expenditure," and decentralisation would be promoted, without tending in any way to the relaxation of "the control which is exercised by the Secretary of State in Council over the expenditure of the revenues of India." Also that "a larger measure of financial independence" would be conferred on the Provincial Governments and the "representatives of the people will be in a position to take more effective part in shaping the policy of the government."[2] The picture was painted perhaps in too bright colours.

Summary of the Principal Measures during the Viceroyalty of Lord Minto in the Finance Department p. 54.

[1] Summary of Measures of Lord Minto in the Finance Department p. 53.

[2] Reform Despatch of the Government of India. 1 October 1908. para 74.

The authority conferred on the local legislatures was so inconsiderable that it could not appreciably affect the principle of ultimate control. It is true that indirectly the views of the additional members of the Legislative Council and public opinion outside influenced to a minor extent the financial administration of the provinces. But as long as the right of voting the budget was not conceded to the Legislative Councils, control by the Government of India remained unimpaired. In this situation, it was futile to expect effective financial independence of the Provincial Governments.

Changes effected in 1912.

Decentralisation, however, was in the air. The Government of India and the Secretary of State desired to enhance the discretion of the Local Governments as far as consistent with their legal status. On the report of the Royal Commission, the Government of India formulated its proposals, and submitted them to the Secretary of State on October 6, 1910. We do not know the contents of this despatch, but it may be presumed that "so far as financial matters are concerned, liberal proposals for the relaxation of control over provincial expenditure have been forwarded to the Secretary of State."[1] The Government of India's suggestions in respect of the recommendations of the Commission about the public works department were also liberal.[2] The

[1] Summary of Measures of Lord Minto in the Finance Department pp. 141-142.

[2] Summary of Measures of Lord Minto in the P. W. D, pp. 67-71.

financial arrangements of 1912 were the outcome of these decisions, and in a large measure they marked the further development of provincial finance.

The Royal Commission had objected to fixed assignments and the Provincial Governments had opposed the policy of the "doles." There was criticism also on the score of inequality of settlements. Also the quasi-permanent settlement had to be revised in one case, serious readjustment was effected in another, and Bengal was on the verge of bankruptcy. Other governments were also craving for assistance from the Central Government.[1] The financial situation of the Government of India, too, was not quite satisfactory owing to the decline of opium revenue and the projected expenditure on education and sanitation. Hence it desired "to remove every avoidable element of uncertainty" and to secure fixity in provincial finance.[2]

A change therefore was imperative. With the concurrence of the Secretary of State the Government of India declared the settlement with each of the eight major provinces permanent, after making necessary modifications in the shares of the Local Governments so as to avoid the necessity of making fixed assignments. The only reservation was that in case of widespread famine the Government of India would come to the succour of the Local Government, and the former, in its turn, would call for aid "in

[1] Financial Statement 1911-12, paras 49-50.

[2] Resolution (Finance) No. 27 F. 18 May 1812 para. 4.

case of a great war or in grave financial crisis." The settlements, otherwise, were to be "fixed rigid and permanent." The Resolution of 1912 embodied the main features and conditions of the new development. It declared that the "principles underlying the existing settlements" remained unchanged. The "divided heads" still existed, and the system of the "doles" and fixed assignments was not entirely given up. Permanence was the fundamental point. Also there was some liberation of the Provincial Government from the Supreme Government's control in the matter of budget etc., under the amended rules.[1]

The Government of India did not accept the charge of inequality of treatment to different provinces, but recognised the necessity of some minor changes in the quasi-permanent settlements before declaring them permanent. These involved the provincialisation of the whole forest revenue and expenditure, and excise in Bombay, but of only three fourths in the United and Central Provinces. Some readjustments were made in the land-revenue in Burma and the Punjab. This was done to reduce the amount of the fixed assignments in these provinces. It was also provided that "when the fixed assignment of a province becomes unduly large and hampers the expansion of its revenue, as compared with the legitimate and necessary growth of expenditure, it will ordinarily be converted, either

[1] Resolution of 18 May 1912, and Financial Statement 1911-12.

in whole or in part, into a share of growing revenues" when the Government of India found it convenient. Some relaxation of control was promised in respect of special allotments or "doles" out of the surplus Imperial revenue. Further the Local Governments were allowed a little more freedom in framing their budgets so that they could budget even for a deficit under certain conditions. Though the Government of India then favoured provincial taxation, it did not consider it essential in the existing circumstances to "vary or diminish the control both executive and legislative" which it possessed.[1] So also, with regard to provincial borrowing no decision was reached. But authority was given to the Local Governments to sanction borrowing by local bodies which had heretofore required the sanction of the Government of India.[2] At the same time the restrictions on the spending powers of the Local Governments were relaxed by enhancing their authority in respect of creation of appointments, grant of salaries, and sanctioning of public works.[3]

The Government of India, however, did not accept other recommendations of the Royal Commission, specially in respect of land-revenue settlements in provinces other than Bombay and Madras. It strongly objected to the suggestion of embodying general principles of assessment and

1 Resolution 18 May 1912.

2 Resolution No. 6215 A, 30 October 1910.

3 Ambedkar pp. 142-151 Resolution Finance Department No. 361 E. A. 24 July 1916. restated the provisions of the earlier Resolution of 1912-1913.

the period of settlements in provincial legislation.[1] The general supervision and control over administration was also not abrogated. In these respects no change seems to have been proposed or effected.

The extent to which these changes meet the situation.

The relaxation of control in many matters of detail which had heretofore trammelled the discretion of the Local Governments was a very useful reform. But it did not in any manner affect the fundamental basis of the relations of the Provincial Governments with the Central Government. At best it could relieve the former of the necessity of reference to the latter on rather trivial matters, and thus tend to the decrease of work in the Government of India. The fixity of financial settlements, too, while marking an advance in the system of provincial finance, did not alter the principle of these settlements, namely, that they were assignments of part of the revenue of the Government of India to meet authorised provincial expenditure. The basis of these contracts was still the "outlay which each province might reasonably incur upon the services which it administered."[2] The measure was not the revenue which accrued in the province, for the revenues were not considered to be the legal possession of the Provincial Governments. Naturally,

[1] Summary of Measures of Lord Minto in the Revenue Department, page 35.

[2] Resolution, 18 May 1912.

in determining the extent of provincial expenditure the Government of India had primary consideration for its own services. Undoubtedly by the arrangement of 1912, this determination of provincial charges and the allotment of revenues sufficient to meet them was made beyond the possibility of revision, with the result that the Provincial Governments could use, without any apprehension of its being curtailed, the normal growth of revenue for the benefit of the province. But the day was still far ahead when the Local Governments would have a legal title to certain sources of revenue whose yield would determine their expenditure.

The divided heads, moreover, provided an entry for the control by the Supreme Government not by means of its general powers of superintendence but by virtue of its financial interests in the management of those services by the Local Governments. Hence that demand for the separation of revenues and the financial independence of the Provincial Governments subject only to the general control by the Supreme Government, could not be satisfied. The provincial budget still required the sanction of the Government of India, and control by the local Legislative Council was not yet secured. The discretion of the Local Governments though widened, was still narrow enough. Could it be hoped that in these circumstances the new arrangement would satisfy the Provincial Governments and evoke enthusiasm in the political bodies in the country ?

There was at the same time little alteration in the administrative and legislative control by the

Government of India. The "doles" with their consequent opportunity to the Central Government to direct the policy of the Local Governments in specific matters, were still a feature of Indian administration. The general principles of administration were determined by the Supreme Government and their application was keenly watched because of the critical disposition of public opinion. The responsibility of governments in India to the Secretary of State and the Parliament was still unabated. How, then could the Provincial Governments expect to have a free hand in their administration? Progress till 1912 had been in the direction of liberating the Provincial Governments in matters of detail for administrative convenience. The outer limit to which the authority of these Governments within the existing constitution could be extended had been reached. The discretion of the official agents of the Parliament had been emancipated to the extent convenient for smooth working. But it did not make the Provincial Governments free, did not lead to financial autonomy and self-reliance, because without effecting a radical change in the constitutional position that object was unattainable.[1] Political opinion in the country could not be satisfied, for the control which it demanded on the financial and administrative policy of the Local Governments was not conceded. These measures thus stopped short of the preliminary of decentralisation, the establishment of popular control. Till 1912, it may be said that the development had been towards

departmental decentralisation, and if that alone had to be provided for, success would have crowned these projects. But the growing political awakening in the country and the demand for subordinating the administration to the will of the people sought solution, and this factor speeded the march towards "Provincial Autonomy".

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[1] The Finance Member hoped that these results would come about by the proposed "Permanent Settlement." Financial Statement 1911-12.

CHAPTER VII

ON THE EVE OF THE REFORMS

The new system of finance (1912 arrangements) in action.
(*i*) Permanent Settlement—its import.

The permanent settlement fulfilled the anticipations of Sir Edward Law in as much as it effected "another considerable advance towards the desired goal."[1] It marked a further step, perhaps a very important step forward, in the process of decentralisation which had begun forty years before. But it introduced no new principles. Of its four special characteristics, namely, the withdrawal of all minute control over the provincial budgets, rigid enforcement of the "doctrine of contractual responsibility," assignment of shares of growing revenues to Provincial Governments in place of large fixed allotments, and the further provincialisation of certain revenues, though all pointed to an advance, yet none was a new feature of provincial finance.[2] Undoubtedly, the declaration

[1] Minute by Sir Edward Law, 1904, quoted in Financial Statement 1911-12, para 50.

[2] Mr. Gokhale's speech in the Budget Debate of 1911. He considered that the first of these was a change which was new. But the Government of India had long declared its intention to withdraw minute control over the provincial budget and generally had not interfered with the distribution of funds on particular sub-heads. In 1911, however, the Government of India announced that it would determine

that future corrections in provincial budgets would be confined to the major divided heads, and to the total revenue and expenditure in Local Government's estimates, promised to free the Local Governments from a detailed scrutiny into the provisions of their budget estimates.[1] This was possible owing to the appearance of the local Legislative Council on the stage in the task of framing a portion of the provincial budget. The most important result, however, of the permanent settlement was the exclusion of the possibility of the revision of these contracts, ensuring thus, a continuity in the financial policy of the Local Governments. Sir G. F. Wilson hoped that "it will give the Local Governments a more abiding interest in managing and directing their own resources, it will greatly reduce the occasions for interference by the Central Government, and it will stimulate provincial independence and self-reliance."[2] The rules of 1912 which regularised the financial powers of the Local Governments were so framed as to assist the realisation of these ends. Also the settlements were so adjusted as to preclude the possibility of Local Governments' approaching the Government of India for further grants. The latter wanted more certainty in its finance and to be relieved "from the unforeseen and indeterminate

only the total of revenue and expenditure and not scrutinise the major heads. This was an advance on the existing system, but not a novel procedure involving an alteration of principle.

[1] Financial Statement 1911-12. para 53.

[2] Ibid para 56.

liability to which Imperial revenues were formerly exposed by the financial difficulties of any individual province."[1] It was expected that their share of growing revenues would prepare the Local Governments to meet all demands from their own resources, and the Government of India would be free "for the closer regulation of our Imperial expenditure."

A hope, at the same time, was held out to the Local Governments, that they would not be debarred from sharing in the surpluses of the Government of India. From time to time, that Government had given grants to provinces "in order to admit the Local Governments to a share in an exceptional increase of prosperity, or to afford the means of financing a policy which commends itself to the central authority."[2] This system was severely criticised before the Royal Commission on Decentralisation,[3] but the Government of India considered that the total abolition of such grants-in-aid or "doles" was impracticable.[4] The chief reasons were firstly that in the case of a surplus the Supreme Government would naturally desire to give a share to the Local Governments and secondly that when a policy, aiming at the progress of the country, had been laid down by the Government of India it must step

[1] Financial Statement 1911-12, para 56.

[2] Resolution 18 May 1912, para 6.

[3] R. C. D. paras 75-76; also Vol. VIII Appendix II; Q. 19243, 32285-91, 32354-8 etc.

[4] Resolution 18 May 1912.

in to finance it in order to "insure its efficient prosecution." It was generally held that such grants and the subsequent interference by the Government of India restricted the liberty of the Provincial Governments. To minimise the disadvantages the Government of India accepted the recommendation of the Royal Commission on Decentralisation under this head.[1] The Government of Bombay, however, desired that the mode of expending such grant should be left to the discretion of the Local Government, but the Government of India could not accept the suggestion. It agreed to abstain from critical enquiry into the object to which the "dole" was to be applied, but considered it necessary "to specify the general purposes of the assignment" so that it might not be diverted to other purposes.[2]

Before the issue of the financial Resolution of 18 May 1912, the policy of "doles" had been

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[1] R. C. D. recommended the adoption of three principles :—

(1) The system should not involve any greater degree of interference by the Central Government with the provincial than at present exists.

(2) The grants should be given with due regard to the wishes of the provincial authorities ; and

(3) They should not be assigned necessarily for the same object in every province. R. C. D. paras. 77-79.

[2] Resolution 18 May 1912.

(ii) The Policy of "Doles"

attacked by Mr. Gokhale and other non-officials in the Imperial Legislative Council.[1] The former called it a "thoroughly demoralising policy" and apprehended that its adoption would wreck the permanence of the settlements.[2] The Finance Secretary did not, however, accept the contention that the Local Governments should have a final voice in spending such assignments, and said that "the Central Government must retain the option of saying how its grants are to be spent."[3] Next year, Mr. Gokhale returned to the attack by proposing a regular grant of two-thirds of the surplus, whenever it accrued, to the Local Governments so as to form "the nucleus of special provincial reserves from which those governments could finance programmes of non-recurring expenditure" on education, sanitation etc. He said that the doles led to a scramble similar to the one which occurred before 1870, and suggested 'that money should be

[1] Budget Debate 1911 (Proceedings of the Legislative Council of India. 1911)

[2] Mr. Gokhale's speech. Budget debate 1911. (Pro. Legislative Council 1911). He wanted a better division of resources so that the Central Government might not have a large surplus to dispose of in 'doles'. He suggested the example of Switzerland and Germany. In the end he pointed out, "so far the advance has been from centralised finance to decentralised finance. When the process of decentralisation is complete, we have to advance from that to federal finance, which should be our goal."

[3] Mr. Meston's speech. 1911. Budget Debate. (Pro. Legislative Council 1911).

rateably distributed, its detailed application being left to the Local Governments,—a course suitably consistent with the promise of provincial autonomy.[1] But Sir James Meston again defended the system by arguing that such subsidies were given only "in pursuance of a definite scheme of high Imperial policy," on the basis of already prepared schemes which could not be prosecuted for want of funds. This point of view of the Government of India was not reprehensible; for as long as it abstained from a too minute control of expenditure from such "doles," the determination of the policy and the regulation of the speed in executing it must be retained by the Supreme Government which was responsible for the good government of the country.[2]

[1] Mr. Gokhale's speech. Also speech by Sir James Meston. Debate on Financial Statement 7 March 1912 (Pro. Legislative Council 1912).

[2] Sir James Meston expressed the viewpoint of the Government of India forcibly in his speech. He said, "the Government of India are ultimately responsible for the progress of the country; the broad lines of policy have to be laid down by the Central Government, which becomes responsible for seeing that the provinces take their shares in carrying out that policy. It does not very much matter whether the pressure comes from above from Parliament, or from below from some strong province, or from outside from public opinion or from within. In any case it is the Government of India which have to finance the policy, which have to direct it and to make it a success. They cannot possibly force a new and costly policy on Local Governments unless they are also prepared to help in finding the money for it. Consequently, it seems to me that the Central Government must retain the option

Nevertheless, it cannot be gainsaid that the policy of "grants-in-aid" restricted the discretion of the Local Governments to a large extent. Its only defence was that the system of government in force was unitary not federal. "Doles" have no place in a system of federal finance, but as yet such a development was remote.

(iii) Financial Rules of 1912 and 1916.

Apart from the "doles," the permanent settlement of 1912 facilitated the extension of the powers of financial control possessed by the Local Governments. Two resolutions were issued in 1912, defining the general financial relations between the Government of India and the Local Governments and amending in many respects the regulations of 1897.[1] In 1916, again, these rules were consolidated with some modifications, and ultimately were incorporated in the 'Book of Financial Powers' in 1918.[2] The financial codes and regulations were amended in their light. The new rules enhanced the powers of sanction enjoyed by the Local Governments, and generally followed the recommendations of the Royal Commission on Decentralisation.[3] The general

of saying how its grants are to be spent when they have made these grants in pursuance of a definite scheme under the new system." (Proceedings Legislative Council. 7 March 1912).

[1] Resolution dated 18 May 1912 and 15 July 1912.

[2] Resolution No. 361 E.A. 24 July 1916.

[3] Ibid.

limitations, however, on their powers of sanction remained the same, except in certain instances, the chief of which were :—(1) that they were permitted to assign to a local body or to a special fund items of provincial revenue of recurring character not derived from proceeds of general taxation, the yield of which did not exceed Rs. 25,000 a year;[1] (2) that they could undertake new expenditure if not (*a*) of an unusual nature, or (*b*) devoted to objects outside the ordinary work of administration or (*c*) likely to involve at a later date expenditure beyond their powers of sanction;[2] (3) that they secured the same rights in respect of provincial and divided heads as possessed by the Government of India;[3] (4) that they got larger powers of sanctioning allowances etc.;[4] (5) that their authority of sanctioning new appointments was raised to Rs. 800 p. m., and of revising establishments involving extra expenditure up to Rs. 50,000;[5] (6) that power was given to sanction charitable grants to institutions, land-gifts and pensions to officials and non-officials, expenditure on state ceremonies and on the purchase of conveyances etc. for use by the head of the province, within certain limits,[6] (7) that the power of sanctioning public works

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[1] Resolution 24 July 1916. Annexure Rule II 5

[2] Ibid. Rule II 5 (11)

[3] Ibid. Rule II 7; Resolution Finance No. 368 E. A. 15 March 1913

[4] Ibid Rule II. 8.

[5] Ibid Rule III. 10 (2) and (6)

[6] Ibid Rule III. 10 (7) (8) (9) (10) (11) (14) (16) (17) etc.

expenditure was raised[1], and (8) that their powers were extended in respect of Imperial items of expenditure.[2]

But in spite of this enlargement of powers, many restrictions, as close as before, on the authority of the Local Governments still existed. The most inconvenient of these, from the point of view of the Local Governments were the limitations on their discretion to budget for a deficit, to exhaust the provincial balances or to exceed the total estimated expenditure, without the sanction of the Government of India.[3] Though the limit was increased yet the Provincial Governments did not possess absolute powers to create appointments and revise establishments.[4] It is true, however, that they had the same powers as the Government of India in this respect. The old prohibitions were retained regarding investment of public funds, raising of additional taxation, borrowing on the guarantee of their revenues, the form or procedure

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[1] Resolution 24 July 1916. Rule III 10 (18)

[2] Ibid Rule IV. 11-18.

[3] Ibid Rule V. 19-26

In 1915-16 the orders of the Government of India were that the total expenditure in the province must not exceed the revenue so that, the already large provincial balances could not be utilized, and in 1916-17 and 1917-18 still more stringent restrictions were imposed, all new expenditure being prohibited unless it were imperatively necessary, or immediately remunerative or necessary to avoid waste. Administration of Sir James Meston 1913-1918. p. 84.

[4] Resolution 24 July 1916 Rule III. 10

of public accounts or delegation of financial powers to subordinate authority.[1] The financial codes and regulations remained in practice as stringent as before till the year 1918, and controlled the exercise of financial powers by the Local Governments. Finally, these powers were subject to the supervision and control by the Government of India which could issue specific instructions "on general or particular matters affecting provincial estimates, and revenues and services."[2]

(*iv*) Their effect on the financial powers of the Local Governments.

The effect of these financial arrangements was "an undoubted advance upon the earlier centralised system,"[3] but that would not warrant the inference that the responsibility of the Provincial Governments was greatly increased or that they were invested with "wider independence."[4] The Local

[1] Resolution 24 July 1916. Rule II (5) (5b) (1) (13) (7) and (10).

[2] Ibid. Rule II. 6.

[3] I. C. R. para 109.

[4] Bannerji. Provincial Finance p. 151, makes this statement, but modifies it on p. 156, by remarking. "These settlements, it is true ensured a certain amount of financial devolution, but they failed to secure to the provinces any substantial measure of financial freedom." There is more truth in his last remark.

The permanent settlement was generally welcomed, but certain shortcomings were pointed out at the same time. Mr. Quin stated that there were some points in which it was not altogether acceptable to the Bombay Government, namely—(1) restrictions about expenditure from provincial balances, (2) the earmarking of the special grants made by the Government of India, and (3) absence

Governments had, no doubt, larger powers of sanction and, it may be presumed, the number of references to the Central Government must have decreased. But it may be doubted if they were free "to pursue their own development policy." Apart from the restrictions on their authority imposed by the regulations above mentioned, they did not possess adequate resources to finance the schemes of internal progress. The settlements, as had been mentioned earlier, were based on a fixed standard of provincial expenditure, to meet which certain sources of revenue had been assigned to them. It was barely sufficient for the day to

of the power of taxing and borrowing. He said that the utility of the Councils was marred owing to this control by the Government of India. Mr. Gokhale feared that the settlements might not be permanent and desired the provincialisation of certain heads of revenue as land revenue, excise, forests etc. Pt. Malaviya also objected to the inadequacy of the settlements and wanted a little more power and a little more responsibility for the Local Governments.

On the other hand, the Government of India believed that the measure besides "being an essential step towards the greater stability of Indian finances" would "confer a larger measure of true decentralisation." Lord Hardinge felt "sure that I may now call on the provinces, as our partners in the work of good government, to cooperate with us in that economy without which true efficiency is impossible." (Lord Hardinge's speech). The difference between the viewpoint of the non-official members of the Legislative Council and the Government of India was that whereas the latter considered the permanent settlement as effecting economy and stability in finances, the former looked upon it as a step in the progress towards Provincial Autonomy and criticized it from that point of view (Debate on the Financial Statement 1911).

day administration of the provinces, and the share of growing revenues which might place in their hands a wider margin for prosecuting schemes of development could not be realised in the first few years. The consequence was that they had to depend for such purposes on the bounty of the Central Government, which was liberal with grants specifically alloted. The Local Governments asked for more and more and the non-official representatives of the provinces in the Imperial Council at the time of budget discussion, pressed for further grants for sanitation or education. When it gave money for such purposes, the Government of India could exercise control on expenditure. This position was a corollary of the absence of the power of taxing and borrowing in the hands of the Local Governments. The "power of controlling the levy of fresh sources of income" and the reservation of "entry to the public loan market entirely for the Central Government," contributed, as the joint authors of the report on Indian Constitutional Reforms rightly pointed out, "to the close subordination" of the Provincial Governments.[1] Because the Local Governments' resources were limited and because they could not be allowed by the "banker" (Government of India) to go bankrupt, the Government of India controlled their budgets to prevent their "drifting into a scale of

[1] I. C. R. paras 110-111.

expenditure which will become stereotyped in permanent deficits and in the entire loss of financial independence."[1] Thus, owing to the "doles" and the budgetary and other restrictions, the control by the Supreme Government over the provincial finance was real even after the permanent settlement.

One other factor associated with the existing settlements helped the continuance of the central control, namely, the interest of the Supreme Government in the divided heads of revenue. The new financial regulations had conferred on the Local Governments the same powers in respect of expenditure on divided heads as on the wholly provincial ones. But in the determination of such revenues the Government of India could not afford to be indifferent owing to its interest in them. Not improbably, in expenditure too, the Central Government would often decline to defray its share of expense on the desired improvement and thus indirectly veto the adoption of the proposed measures by the Local Government. We are told by the Government of India that "in case of divided heads, the Central (Financial) Department interfered on the plea of safeguarding its own interests."[2] Small wonder, then, that some Local Governments and the non-officials should have advocated a

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[1] Mr. Meston's speech. Budget Debate 1911 (Proc. Legislative Council 1911).

[2] Memorandum on Finance submitted by the Government of India to Feetham Committee. 31 December 1918, para. 6.

complete separation of resources and expenditure in order to establish provincial financial liberty.

The position in 1918, so far as the financial relations between the Central and the Provincial Governments are concerned, was not radically different from that before the inauguration of the permanent settlement. The Provincial Governments could not undertake fresh taxation, or raise loans. The regulations embodied in the various financial codes gave the Finance Department of the Government of India "an infinite power of putting its finger into provincial affairs."[1] The "doles" restricted their liberty; and the inadequacy of their revenues made them unable to respond to the demands of their Legislative Councils for increased expenditure on education, sanitation and such other public utility services. Also, another consequence of the central control was to prevent the local Legislative Councils from moulding the financial policy of the province. Naturally they became irresponsible in their criticism and embitterment increased. There was, further, no alteration in the principles of the financial system. It was still a unitary centralised system in which certain functions and powers had been delegated to the Local Governments for administrative convenience. There was as yet no federal finance. Decentralisation too had not progressed enough to lead to Provincial Autonomy. The system in its

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1 Memo. Feetham Committee 1918, para 13.

main principles was anomalous in the altered political situation of the country.

Administrative control exercised by the Government of India—its extent.

The control by the Government of India over provincial administration was based on two considerations; firstly its statutory right of "superintendence, direction and control," and secondly "the control over expenditure enforced by the various codes which resulted both from the system of divided heads of revenue and from the peculiar responsibility felt by the Central Government and the Secretary of State for economy in administration."[1] Besides, the Central Government had previously a close interest in subjects like police and criminal justice for the purpose of discharging its responsibility for the security of India. There were certain other matters, affecting commerce and industry, in which uniformity being desirable the Government of India had exhibited its close concern. Moreover, the increasing interestedness of the people in the growth of education, sanitation and indigenous industries had often led the Supreme Government to lay down general principles, or issue definite instructions to the Local Governments for greater activity in these respects. The operation of one or other of these motives had before 1908 enhanced the interposition of the Supreme Government. It was greatly criticised before the Royal Commission on Decentralisation,

[1] Fourth Despatch on I. C. R. April 16, 1919. para. 5.

and hope was expressed that the Provincial Governments would be released to a greater extent from the enmeshing control of the Government of India.

The relaxation of financial control as a result of the recommendations of the Royal Commission on Decentralisation was expected to lessen appreciably the interference by the supreme authority particularly such as was due to the paucity of powers of financial sanction by the Local Governments. We have no reason to doubt that it was so. But the existing system had reached the limit of its possible development. No doubt, however, the extent and character of the exercise of such authority had altered, as is evident from the tone of the Resolutions issued after 1911. Resolutions directing the attention of the Local Governments to the specific measures of reform in sanitary administration, educational progress and local self-government formulated the policy of the government but left its execution to the discretion of the Provincial Governments.[1] These Resolutions of Lord Hardinge's government "certainly cannot be accused of Prussian rigidity and precision."[2] They were remarkable for the wide range of subjects discussed and for their comprehensive examination of the existing evils, and the requisite reforms, but their

[1] Resolutions 1913 and 1915—On Sanitation 23 May 1912, On Local Self-Government 1915, and Education 1913.

[2] I. C. R. para. 118.

purpose was merely to point out the directions in which the Local Governments should look for betterment. Local conditions and circumstances were to have full effect. Uniformity of system and of progress were the main considerations in such instructions, an instance of which is afforded by those concerning excise or police administration.

The Government of India's excise policy was criticised in the Parliament in 1914, on which the Secretary of State called for a report from the Governor General in Council. The latter explained the main features of the Indian excise system,[1] and then circularised the Local Governments so that "provincial excise administration may be conducted on uniform lines." The Supreme Government "recognised that complete homogeneity is not possible," but held that "uniformity of principle and coordination of effort are essential," and hoped "by drawing attention to questions of general application and importance, to ensure that in the provincial administration of excise, the fundamental principles at stake shall not be overlooked." General measures to give effect to the policy of the government were sketched and the Local Governments were asked to bring them to the notice of the local officers.[2] Police administration also continued to be carefully supervised by the Supreme

[1] Letter to Secretary of State No. 12 (Excise) 26 February 1914.

[2] Circular Letter to Local Governments No. 1766-1783-81 (Excise) 18 March 1914.

Government. During Lord Hardinge's government resolutions were issued giving specific instructions as to the steps to be taken in the various provinces to bring home to the police that the merits of the investigating officers were not judged solely by the statistical results of the cases sent up by them for trial. Also in December 1913, definite orders were issued for the appointment of enquiry commissions on police officers when cases of serious misconduct came to be known.[1] Other precautions were also taken to guard against police misbehaviour. It is not, however, possible to show definitely how far this general control by the Government of India was exercised in excise, police and such other departments at that time; but we may accept the statement in the report on the Indian Constitutional Reforms as representing the fact that as an effect of the responsibility to Parliament for good government and for "the maintenance of high standards of public and personal conduct," the Government of India was "constrained to control Local Governments closely in such matters."[2]

Owing to the political disturbances in some parts of the country, the Government of India was required to watch closely the course of events there and control the operations of the Local Governments to meet the situation. There was a suspicion that

[1] Summary of the Administration of Lord Hardinge p. 10.

[2] I. C. R. para. 119.

the movement had its ramifications throughout the country and was organised by a central authority.[1] For its supression Lord Minto's government adopted various means which often required the sanction of the Secretary of State, as in the matter of the deportation of Mr. Bepin Chandra Pal or the enactment of the Press Law and anti-sedition laws.[2] In cases such as these it may be presumed that the Local Governments concerned had to follow the policy prescribed by the Supreme Government. On this point Sir Bamfylde Fuller's resignation in 1906 is relevant.[3] Lord Minto considered it "all-important now that power should centre in the Viceroy and the Government of India."[4] It was inevitable, for the matter affected the very existence of the British Government in India and so could not be left entirely to the initiative and discretion of the Local Governments. Under Lord Hardinge also, when in February 1913, there was a recrudescence of "seditious activities" in Bengal, the Government of India called for the views of the Local Government on the whole situation, and in later communications

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[1] Minto to Morley, May 13, 1908; India, Minto and Morley, p. 232.

[2] Minto to Morley, June 27, 1907; July 10, 1907 and other letters in "India, Minto and Morley" pp. 147-152.

[3] See Parliamentary Paper concerning the resignation of Sir B. Fuller, Lieutenant Governor of Eastern Bengal and Assam; India, Minto and Morley, pp. 52-57.

[4] Minto to Morley, December 10, 1908. India, Minto and Morley, p. 259.

"dwelt upon the various methods by which the administration could be strengthened." These included the better organisation of the police, the reinforcement of the Criminal Investigation Department, and the better control of schools etc. Also the Supreme Government laid great "stress on the need of thorough enquiry into the conditions which had produced the existing state of affairs."[1] Ultimately the Government of Bengal, under strong pressure from the Government of India, appointed a Committee for the purpose. During the War, the Supreme Government, of course, kept itself fully informed of what happened in the provinces. The preservation of law and order had become in these strenuous days essentially a matter for its close consideration.

In respect of land revenue policy, too, the Government of India had for political reasons interfered with the Local Governments to secure their adherence to its policy, which remained generally the same as laid down by Lord Curzon's government in 1902. In Lord Minto's time measures were proposed for the introduction of more elasticity into the system of assessments and the grant of reduction of revenue when irrigation works fell out of use. The Local Governments were asked to revise their rules in the light of the principles laid down in the Resolution of 1906. Also instructions were issued for the revision of the

[1] Summary of the Administration of Lord Hardinge p. 16-18

rules relating to enhancement of revenue at resettlements, and the Punjab Government was required to follow the orders of the Government of India about the assessment of the Delhi district. The principle of long term settlements was reaffirmed; and in Burma it was fixed at 20 years. So also were principles prescribed respecting suspensions and remissions of land revenue in times of calamity, and the Government of the United Provinces, which did not accept them first, finally concurred.[1] In 1911, however, the Local Governments of the larger provinces (Madras and Bombay possessed these powers before) were given authority to undertake resettlements when an enhancement of not more than 33 per cent was anticipated and to confirm the settlements. But as the government of Lord Hardinge was busy developing the policy of moderation in land revenue assessments, on several occasions it made suitable modifications in the proposals of the Local Governments in regard to resettlements which were inconsistent with the declared policy.[2]

Nevertheless, the tendency at the time was in the direction of decentralisation. "The principle of devolution and its spirit was embodied in the orders" of the period.[3] There was steady

[1] Summary of Measures in Revenue Department under Lord Minto, pp. 30-37.

[2] Summary of the Administration of Lord Hardinge p. 54.

[3] Ibid, para. 118.

enhancement of the authority of the Local Governments. For instance, they were authorised to select their Sanitary Commissioners, though within certain limitations,[1] were competent to frame rules for the recruitment of the provincial service,[2] and were empowered to make certain appointments to reserved posts from the cadre of the Provincial Civil Service.[3] The same spirit manifested itself in the Indian enactments of the period. The authority of the Local Governments was enhanced by repealing the words "with the previous sanction of the Governor General in Council" from various earlier Acts and by giving either absolute powers to the Local Governments or substituting the words "subject to the general control" instead. For example, the amendments in 1911 and 1912 or later to the Indian Factories Act (No. XV 1911), the Bengal, North-Western Provinces and Assam Civil Courts Act (No. XVI of 1911), the Local Authorities Loans Act (No, X of 1912,) the Births,

[1] Resolution, Department of Education, 23 May 1912.

[2] Resolution H. D. (Establishment) Nos. 1046-1058, 19 August 1910. Public Service Commission Report, 1916, pp 188-9.

[3] Notification No. 1128 dated 26 August 1910. Also e.g. Notification No. 1241 of 9 September 1910 authorising the Government of Eastern Bengal and Assam to appoint Subordinate Judge to be Assistant Sessions Judge. Also notifications leaving certain Judgeships in each province to be filled by the Local Government from among the provincial service officers. H. D. Resolution Nos. 481-488c. dated 19 December 1913 and also Resolution Nos. 1673-1675 dated 27 December 1915.

Deaths and Marriages Act (No. IX of 1911) and the Indian Ports Act (No. VI of 1916) were definitely intended to enlarge the powers of the Local Governments. Also some of the Inspector Generalships as those of the Veterinary and Agriculture Departments which had led to indirect control of these provincial departments, were abolished.

The Provincial Governments had the management of the provincialised services as well as of those which were Imperial. In the latter they acted merely as agents of the Central Government and their powers of sanction were closely limited. In the case, however, of the divided and the wholly provincial subjects their authority was fairly wide, but, as mentioned before, was restricted by the statutory or legal inhibitions, by financial regulations or by executive orders. An idea of the extent of these checks may be had from the list appended to the Madras Government letter of 31 December 1918 on the reform proposals.[1] A convention seems to have developed that beyond enunciating the general policy the Government of India would exercise minimum control over such services as education, local self-government, local public works, agriculture or sanitation. But in addition to retaining full control of the customs, post office and telegraphs, railways and defence services which were wholly Imperial, the Government

[1] Despatch of the Government of India 5 March 1919. Enclosure 18 to No. 1 Appendix II

of India maintained closer supervision on police, jails, excise, irrigation works, and law and order generally throughout the country.

Extent of the Legislative functions of the Local Governments and the control exercised by the Central Government.

In the legislative sphere control by the Government of India underwent no remarkable change. The constitution of the new Legislative Councils under the Minto-Morley scheme was not materially different from the older ones for in theory they were still mere adjuncts of the executive government. "The conception of a responsible executive, wholly or partially amenable to the elected councils, was not admitted. Power remained with the government and the Legislative Councils were left with no functions but criticism. The bonds of official authority which subjected Local Governments to the Government of India and the latter to the Secretary of State and Parliament" remained unaffected.[1] Therefore the control over local legislation which the Government of India exercised by means of "executive directions" remained unabated. All bills even those of private members were submitted to the Secretary of State and the Government of India. The Secretary of State ruled that private bills affecting revenue should be submitted to him for consideration.[2] There was no alteration in those provisions of the Government of

[1] I. C. R. para. 81

[2] I. C. R. para. 116

India Act which restricted the provincial councils' sphere of legislation.

The practice of reviewing and examining the projects of local legislation in the Legislative Department of the Government of India persisted. Generally, local bills came before it when permission for introduction was sought, when important amendments were made during the passage of the bill, and lastly when it was sent for the assent of the Governor General. The bills were examined in their different bearings as previously. This class of work had increased in the time of Lord Hardinge because new local legislatures were created and all became more active when they contained more non-official members.[1] Also, owing to their executive subordination the legislative policy of the Local Governments was determined by the higher authorities. They were also controlled by the Central Government in their attitude towards the non-official resolutions. When the Bombay Government had in opposition to the wishes of the Government of India accepted a non-official resolution in 1910,[2] the Secretary of State ruled that the Local Governments must uphold the decision of the Government of India in their Legislative Councils.

To the existing Legislative Councils three more were added in Behar, Assam and the Central Provinces. With the establishment of these

[1] Summary of the Administration of Lord Hardinge, p. 72.

[2] I. C. R. para. 90.

councils, every major province secured the machinery to legislate for provincial needs in matters which were legally within the competence of the local Legislative Councils. The Government of India generally did not legislate on such matters, though it retained concurrent legislative power. Thus the prevailing tendency was towards decentralisation and much had been done to emancipate the Local Governments from the control by the Government of India. The interference of the latter in provincial affairs was now neither so minute nor so comprehensive as in the earlier periods. But it will be a mistake to suppose that the Local Governments had become free or responsible. The only change was in the degree of the superior control not in its character.

The Minto-Morley reforms had introduced no fundamental alteration in the constitution. Parliament did not relinquish its control in any respect over the government in India. The responsibility of the executive to the legislature was not contemplated. The Local Governments as well as the Government of India were accountable to the Secretary of State, who exercised his authority through the Governor General in Council. It was therefore impossible that there should be relaxation of control by the Government of India over the Local Governments. And because there was no devolution of authority, the sphere of the local Legislative Councils' effectiveness was limited. The legislature could not mould the policy of the Local Government as the latter was subject to the orders of the superior executive bodies. Hence the hopes of the electe

members of the Legislative Councils that they "would have all the opportunity that they needed of influencing the course of provincial business" were not realised. The expectation that the reforms would silence political agitation did not fructify. The public feeling for responsible government and further constitutional advance became crystallised. Dissatisfaction at their failure, led the members of the Legislative Councils to indulge in sharp criticism of the government. The Local Governments, too, were not content with their position. They did not possess the power either of taxing or of borrowing. They could not put into operation the policy pressed by their Legislative Councils, both because of lack of resources and the necessity of securing acceptance of the higher authorities. They felt a growing estrangement between themselves and the elected members. It was clear, therefore, that the existing control by the Government of India was fruitful of mischief, and conflicted with popular aspirations.

Dissatisfaction of the Local Governments with the existing system.

The Provincial Governments, therefore, were not satisfied with the existing position, and such of them as could visualise the trend of events clearly realised that further decentralisation was the chief solution. Lord Sydenham (Governor of Bombay) considered that the presence of a majority of non-officials in the local Legislative Council had "effected a radical change in its constitution," giving to the Bombay Government the assistance of a representative council in "successfully administering

its own finances," hence "all checks and restrictions which are not absolutely essential to the maintenance of the general control of the Imperial Government" should be removed from the financial authority of the Local Government. Otherwise he felt that the usefulness of the Legislative Council would be marred.[1] He was of opinion that the Legislative Council "is now quite fit to assume a larger responsibility" which ought to "be conferred upon it" so that it should "become a real power" in helping the progress of the province.[2] Extension of popular control, in the opinion of some, necessarily implied a "radical reduction of the Government of India's and the Secretary of State's powers and practice of interference."[3] This could not come about merely by "the relaxation of a rule here or the extension of a limit there, but by the achievement of a complete change of view regarding the powers of Provincial Governments." The Government of Madras pleaded for the abandonment of "the traditional policy" of distrust of the Provincial Governments, that they "must be hedged round with a net-work of rules and restrictions to prevent their going astray"[4] At the same time they regarded the financial rules of 1916 as restricting their powers

[1] Speech by Mr. Quin in the Imperial Council. Budget Debate 1911-12.

[2] Lord Sydenham's Speech in Bombay Legislative Council. 17 March 1913.

[3] Madras Government letter No. 948 of 19 October 1918 (Enclosure to First Despatch 1919).

[4] Ibid. para. 27

and depriving them "of all real independence." The Government of Madras thought them objectionable, unreasonable and opposed to the "general principle that the Central Government should confine itself to laying down a general policy and should not interfere in matters of detail."[1] Every Local Government looked with disfavour on the financial checks as these paralysed their initiative, led to great delays and consequently to the "slow progress of the country." Objection was taken to the absence of the power of taxation and borrowing, the provision of which the Government of Bombay considered essential for the development of the province.[2] The more advanced of the Local Governments favoured a complete separation of revenue sources and a definite demarcation of the provincial subjects which they would be free to administer without interference from the Supreme Government.

Contemporary Indian public opinion.

Indian opinion, too, was not satisfied with the changes introduced before 1912. The expectations aroused by the Minto-Morley reforms soon proved to be illusary. The joint authors of the Report on the Indian Constitutional Reforms have analysed the causes of this feeling.[3] Constitutional development had not kept pace with the advance of political ideas and national aspirations.

[1] Madras Government letter No. 1145, 31 December 1918 para. 13-17.

[2] Speech by Mr. Quin 1911, also Bombay Government letter No 9745, 11 November 1918.

[3] I. C. R. para. 99-100.

The result was a growing discontent. Since 1905, the Indian National Congress had adopted the attainment of self-government as the goal of national efforts. Though an exact definition of this phrase was not attempted, yet it was generally considered to include the establishment of a responsible parliamentary government in the provinces and at the centre, with a larger infusion of Indian element in the administration of the country. It implied that "the people of India should be allowed a larger voice in the administration and control of the affairs of their country."[2] "Expansion of Legislative Councils, effective representation, and larger control over financial and executive administration,"[3] was what it demanded. The new Indian Councils Act did not smooth the progress towards that end, and thus failed to evoke the enthusiasm of political India for any length of time. Simultaneously, fresh forces, both external and internal, were working to aggravate discontent. The extremist party which had been eclipsed for the time being, emerged again. Thus when the

[1] Resolutions of the Indian National Congress 1905 onwards. Also Report of the Sub-Committee appointed by the Madras Provincial Congress Committee to consider a scheme of self-government, 15 August 1915. This Committee and Mr. S. Srinivas Iyengar who appended a note to the Report defined the demands of non-official India. It wanted responsibility of ministers to the representative assembly, and also control over purse etc.

[2] Resolution No. 4 Indian National Congress 1905.

[3] Resolution No. 9, Indian National Congress Calcutta 1906.

"national consciousness and desire for political power were growing rapidly in the minds of the educated Indians," the limited opportunities provided by the new Legislative Councils failed to satisfy the advanced opinion in the country. More rapid progress in the transference of power from the hands of the bureaucracy to the representatives of the people was demanded.

Lord Hardinge's Despatch of 25 August 1911.

When feelings were thus greatly ruffled, Lord Hardinge's government sent a despatch to the Secretary of State outlining the measures which should be adopted to assuage public opinion.[1] Among other proposals, the Government of India suggested the removal of the capital from Calcutta to Delhi, and in that connection wrote the following: "The maintenance of British rule in India depends on the ultimate supremacy of the Governor General in Council, and the Indian Councils Act of 1909 itself bears testimony to the impossibility of allowing matters of vital concern to be decided by a majority of non-official votes in the Imperial Legislative Council. Nevertheless, it is certain that, in the course of time, the just demands of Indians for a larger share in the government of the country will have to be satisfied, and the question will be how this devolution of power can be conceded without impairing the supreme authority of the Governor

[1] Despatch dated 25 August 1911 (published in the Gazette of India Extraordinary dated 12 December 1911).

General in Council. The only possible solution of the difficulty would appear to be gradually to give the provinces a larger measure of self-government, until at last India would consist of a number of administrations, autonomous in all provincial affairs, with the Government of India above them all, and possessing power to interfere in case of misgovernment, but ordinarily restricting their functions to Imperial concern." The chief recommendation of the Government of India was to undo the partition of Bengal by amalgamating the two Bengals but separating Behar and Orissa as a new province. There is no mention in this despatch of the suggestions of the Decentralisation Commission or of any desire to alter the Indian Councils Act in the immediate future. Therefore one is surprised at such a momentous declaration as contained in the words quoted above. It is absurd to suppose that it was casually made. Ostensibly the despatch was meant for publication. Its whole tenor is to pour oil on disturbed waters. Hence it may be supposed that these words were intended to point out the direction in which the aspiration of political India could look for fruition.

The interpretation of the passage is quite plain. It denotes that the subordination of the central executive to the wishes of the non-official majority in the Imperial Legislative Council was impossible. But the satisfaction of the Indian demands "for a larger share in the government" could be provided for in the provincial sphere. Hence the gradual withdrawal of central control was suggested so that ultimately

the Provincial Governments might be free to manage the provincial affairs ordinarily without interference from the Government of India. Apparently the establishment of self-governing provincial administrations "autonomous in all provincial affairs" pointed to the transference of power partially from the Supreme Government to the people.

The Indian opinion at once rallied round the phrase "Provincial Autonomy" and saw in it the fulfilment of its aspirations. But soon Lord Crewe shattered these happy dreams by declaring that the statement referred merely to further decentralisation of control from the Government of India to the Provincial Governments without in any way intending to subordinate the latter to popular control. Nevertheless, Indian political bodies stuck to their guns and made "Provincial Autonomy" their immediate objective.

Sentiment and logic both played their part in such an interpretation of the statement. It was contended that a despatch conferring "boons" at the time of the visit of the King Emperor could not but denote the direction of British policy in India, and so any petty explanation was incompatible with the magnitude of the occasion.[1] It was argued that mere financial decentralisation by abolishing a few rules constricting the authority of the Local Governments could not have been the intention of the Government of India, for the past

[1] Proceedings Indian National Congress 1912. Mr. S. N. Banerji's speech p. 88.

development on that line did not result in the freedom of the Provincial Governments.[1] The soundest and weightiest argument advanced by the Indian politicians was that devolution of powers to the irresponsible provincial executives "would not only be anomalous but hazardous and out of tune with the spirit of the new constitution;"[2] for the divestment of the Supreme Government's control would result in the "establishment of decentralised autocracy in the land."[3] The non-official opinion had never made a secret of its dread for decentralisation of powers to the Provincial Governments without corresponding control being placed in their Legislative Councils. Therefore Indian politicians concluded from the words and their context in the despatch that by autonomous provinces the Government of India implied devolution of control in provincial affairs from the Supreme Government to representative bodies.

Apart from the immediate confirmation by Mr. Montagu in his Cambridge speech[4], and from

[1] Proceedigs Indian National Congress 1912. Mr. S. J. Roy p. 93.

[2] Pro : Indian National Congress 1912. Mr. R. N. Mudholker's Presidential Address p. 18.

[3] Pro : Indian National Congress 1912. Mr. S. J. Roy's speech p. 93.

[4] Mr. Mantagu's speech in the Guildhall, Cambridge, 28 February 1912. After quoting the words of the despatch he remarked "We cannot drift on for ever without stating a policy......At last, and not too soon, a Viceroy has had the courage to state the trend of British policy in India and the lines on which we propose to advance." (The Rt. Hon'ble Mr. E. S. Mantagu on Indian Affairs, p. 309).

the later trend of political progress in India, the correctness of the popular interpretation is proved by the frequent statements made by the Government of India earlier, that the Provincial Government could not be liberated from superior control in the absence of its responsibility to an electorate in the province. It is inconceivable, therefore, that at a time when from all sides importunate demands for the establishment of responsible self-government of the Colonial type were being made, the Government of India should hold out merely the ideal of "official Provincial Autonomy" as the goal of Indian constitutional progress. If the despatch was an indication of future policy, the base on which the reform scheme of 1919 was built, no different meaning would be warranted but that the constitutional advance must commence in the sphere of provincial administration. The despatch, therefore, was but the next step forward on Lord Ripon's Resolution on local self-government, for whereas the latter envisaged the establishment of popular control over local bodies (local board and municipalities), the former aimed at its extension to provincial administration.

Non-official proposals; Provincial Autonomy.

Though Babu Surendra Nath Banerji had said in 1908 that "the beginnings of provincial autonomy are thus laid broad and deep" when a non-official majority was established in the provincial Legislative Council, the Indian opinion did not express itself keenly on it before 1911.[1] The statement

[1] Proceedings Indian National Congress 1908. p. 49.

in the despatch and the controversy raging over it afforded a concrete political programme to the Indian National Congress and other bodies. Political literature henceforth is full of references to "Provincial Autonomy." The different aspects of the desired development were being discussed. Whatever might have been the intention of Lord Hardinge's government, public opinion at least adopted "Provincial Autonomy" as its chief slogan and thus gave a definite mould to national aspirations. It seems strange, however, that at a time when political and social movements were aiming at national unity, and also when a greater solidarity had developed, this apparently centrifugal programme should have held the public mind. This anomaly is explained by Mr. A. Rangaswamy Iyengar in one of his political pamphlets by arguing that "vivid local life of the province" is as essential for healthy political development as "the larger organic life of the nation"; and because the former is cramped in India by too close a union or over-centralisation, therefore devolution is a necessary preliminary step to the "achievement of national ideals." This devolution must be limited to certain things so that the national unity might not be undone.[1] A federation of autonomous provincial states had been long before the public view and had always appealed to it. Naturally, at this time when schemes of self-government were being discussed, the federal

[1] A. Rangaswamy Iyengar: Provincial Autonomy. 1916. pp. 2-4.

idea should come to prominence. The ideal of Mr. Mazaharul Haque was "the federated states of India under the aegis of British rule."[1] But generally the ideas are vague, for the limitations of the existing situation did not allow a bold approach to the subject.

It has been mentioned before that the Minto-Morley reforms failed to satisfy political India. Mr. Wacha, speaking in 1915 said that they were "so exceedingly defective and hardly in harmony with the growing popular sentiment and wishes that it is inevitable that sooner or later the defects which presently accompany them will have to be removed."[2] The causes of this dissatisfaction were the ineffectiveness of the Legislative Councils to control administration, and the centralised system of government.[3] The latter was supposed to have a "chilling, nay petrifying......effect on the economic welfare of the people." The decentralisation of finances did not go far enough to be satisfactory, and the utility of the provincial Legislative Councils was marred by the control exercised by the supreme executive government, in no way responsible to or influenced by representative councils. Dissatisfaction was aggravated by the new War-days ideas of self-determination and liberty of all peoples. The educated classes were seriously agitated and cherished hopes of a better system at

[1] Proceedings Indian National Congress 1912. p. 7
[2] Proceedings Indian National Congress 1915. p. 9
[3] Iyengar : Provincial Autonomy. p. 1.

the end of the War. The political organisations set to the task of formulating agreed schemes which could be presented to the rulers for immediate adoption. Many such proposals were framed, but the most important and perhaps "the most complete, and most authoritative presentation of the claims of the leading Indian political organisations" was the Congress-League scheme of 1916. Other proposals either followed the general arrangement of this scheme or were very much similar to it.

The Congress-League Scheme

The fundamental idea of the Congress-League scheme was that the "voice of the duly elected representatives of the people should prevail both in the Indian and in the provincial Legislative Councils" so as to secure to these legislatures "complete freedom of legislation," full control of the finances of the country and "the power of controlling the executive." It aimed at "Provincial Autonomy" accompanied by the liberalisation of the Government of India, for it was feared that the "experiment of provincial autonomy cannot be conducted under favourable conditions, if the proceedings of a democratic body......were to be reviewed by an unreformed Government of India."[1] The scheme provided among others for a provincial Legislative Council which "should have full authority to deal with all matters affecting

[1] V. S. Srinivasa Sastri: The Congress-League Scheme, An Exposition. 1917.

the internal administration of the province, including the power to raise loans, to impose and alter taxation, and to vote on the budget." The Provincial Government was to consist of an irremovable executive of which at least half were to be Indians "elected by the elected members of the provincial Legislative Council." A complete separation of the sources of revenue was suggested according to which the Government of India should have "customs, post, telegraph, mint, salt, opium, railways and tributes from Indian States," and the Provincial Governments the rest. The deficit in expenditure of the Supreme Government was to be met out of the fixed contributions made by the Provincial Governments. The Supreme Government was to administer the above subjects and the army and navy and foreign and political matters. Also while not ordinarily interfering in the local affairs of the province, the Government of India would have the authority of "general supervision and superintendence over the Provincial Governments."[1]

So far, therefore, as the relations of the Local Governments with the Central Government are concerned, the Congress-League scheme adopted the earlier suggestions (of Mr. Gokhale and others) of the separation of provincial finances and the decentralisation of legislative and administrative control by the Supreme Government. Before this

[1] Congress-League scheme 1916 (Parl. Papers 1918 Vol. 18. pp. 573-5.

scheme had been discussed, Mr. Gokhale had written a memorandum suggesting the line which the post-war reforms should take. He desired the grant of provincial autonomy which should "involve the two-fold operation of freeing the Provincial Governments, on the one side, from the greater part of the control which is at present exercised over them by the Government of India and the Secretary of State, in connection with the internal administration of the country, and substituting, on the other, in place of the control so removed, the control of the representatives of taxpayers through provincial Legislative Councils."[1] In other respects it was akin to the Congress-League scheme. The memorandum submitted by the nineteen members of the Imperial Legislative Council was also similar, and these two may be said to be the precursors of the Congress-League scheme. All these proposed to allot the sphere of provincial activities and retain the residuary powers with the Supreme Government, both because of maintaining national unity and of preserving the responsibility of the Government of India to the Parliament.

A fundamental change in the outlook necessary

By the end of the War, there had been a great political awakening in the country and the people expected an advance towards "Colonial Self-Government." Transference of power from the officials to the elected representatives of

[1] Mr. Gokhale's Memorandum (E. I. Constitutional Reforms, Parl. Paper Cmd. 9178., 1918 Vol. 18. pp. 575-77).

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the people was demanded, at least in provincial administration, for the impracticability of securing it in the Central Government was evident to all. The popularisation of the Provincial Governments necessarily implied greater decentralisation or devolution of control from the Supreme Government to the Provincial Governments, for the revision of the acts of a responsible Local Government by a bureaucratic body would be anomalous. The situation, in fact, had altered. Whereas in the earlier stages decentralisation was desired by the official Provincial Governments for administrative convenience, it was now required for purposes of constitutional development. With the coming of the popular element to the front, the problem was no longer one for administrative arrangement, but required a fundamental change in the character of government.

CHAPTER VIII

. POSITION UNDER THE GOVERNMENT OF INDIA ACT OF 1919.

The Indian constitution heretofore had grown in a more or less haphazard manner.[1] The changes in the structure of government were, at best, mere makeshifts designed to secure administrative convenience. The goal of British rule in India had not been enunciated before 20th August 1917 when the Secretary of State for India, perhaps in response to the demand of political India, and after prolonged communications with the government of Lord Chelmsford, made the following announcement :

"The policy of His Majesty's Government......... is that of increasing association of Indians in every branch of the administration and the gradual development of self-governing institutions with a view to the progressive realisation of responsible government in India as an integral part of the British Empire. They have decided that substantial steps in this direction should be taken as soon as possible.........I would add that progress in this policy can only be achieved by successive stages...."[2]

It was a "momentous utterance," which pledged

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[1] Sir Frederick Whyte: India a Federation? p. 303.

[2] I. C. R. para 6.

the British Government to the introduction of responsible government in this country. It marked truly the "end of one epoch, and the beginning of a new one."[1] For the purpose of giving effect to the intentions of His Majesty's Government, Mr. Montagu, the Secretary of State for India, came here to confer with the Government of India and the Local Governments, and to "receive......the suggestions of representative bodies and others."

The addresses which were presented to the Secretary of State by the non-official bodies contained "a general demand for provincial autonomy," though comparatively few of them discussed in "detail the apportionment of powers between the provinces and the Government of India."[2] The Congress-League scheme was the basis of these suggestions. The creation of "self-governing provinces organised and coordinated by one central government" was recommended as the ultimate goal in India.[3] For this purpose proposals were made advocating the largest measure of independence for the Provincial Governments from the control of the Government of India and the Secretary of State. Also that the provincial administration should rest on a wide popular basis, which implied substitution of the control by the provincial Legislative Councils for

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[1] I. C. R. para 7.

[2] E. I. Constitutional Reforms. Addresses presented to the Viceroy and the Secretary of State (P. P. Cd. 9178, 1918. Vol. 18. p. 473).

[3] Ibid. p. 477.

superior official control. There was more or less a universal demand on the part of advanced opinion in India for responsible government also.

The problem before the Secretary of State and the Viceroy was to devise a constitution which should reconcile the responsibility of the Parliament with the "progressive realisation of Responsible Government" in British India. The transference of control from Parliament to the representatives of the people could only be gradual, measured by the advance of political sense in the electorate. Also there were certain departments of government, "the integrity and efficiency of which are so vital to the British connexion, that in existing conditions they could not be submitted to popular control."[1] As most of such services pertained to the Central Government in India, the hold of the British Parliament on the Government of India, in the earlier stages was inevitable. Moreover, the Indian electorate too could not be entrusted, in the days of its political infancy, with the determination of matters of high state, such as defence, fiscal policy, control of the British personnel of the all-India services, etc. Therefore the only field for trying the experiment of responsible government was in the provinces, and there too in such services merely as could, without prejudice to efficiency and public order, be entrusted to the care of the elected representatives of the people. It involved, therefore,

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[1] The Duke Memorandum. Ch. III para 1. Curtis : Dyarchy p. 16.

at the outset, transfer of "responsibility for certain functions of government" only while control over others was to be reserved to Parliament. Starting with these premises, the Secretary of State and the Viceroy in their joint Report laid down the following formula :—

"The provinces are the domain in which the earlier steps towards the progressive realisation of responsible government should be taken. Some measure of responsibility should be given at once and our aim is to give complete responsibility as soon as conditions permit. This involves at once giving the provinces the largest measure of independence, legislative, administrative and financial, of the Government of India which is compatible with the due discharge by the latter of its own responsibilities."[1]

Its adoption required the Parliament and the Secretary of State to relax their control over Provincial Government in proportion as the administration there was placed in the charge of responsible ministers. But as Provincial Governments, owing to their official character, were hitherto constitutionally subordinate to the Government of India and the Secretary of State, and as their discretion was very much limited, a devolution of power to them, as a preliminary stage, was essential. The main feature of the new scheme was this devolution of authority, which made the changes

[1] I. C. R. para 189, p. 93.

introduced in 1919 so different from previous attempts at decentralisation.

The joint Report aimed at the establishment of semi-autonomous Provincial Governments by effecting a wide measure of decentralisation and devolution. The gradual transfer of control from the Parliament to the legislatures in India was to be "effected by a process of dividing the sphere of government in the provinces between two authorities one amenable to Parliament" and the other to "an Indian electorate." By further decentralisation the discretion of the official government was to be enlarged, but from over the "responsible" half of the Provincial Government the control of the Parliament and its agent the Secretary of State was to be withdrawn by a scheme of devolution of powers. The emancipation of the Provincial Governments from superior official superintendence and control was provided for in so far only as they were made responsible to the provincial electorate. In this respect it was a departure from the earlier steps in decentralisation, for whereas before 1918 decentralisation was effected between the official governments,—and as such was very much limited,—the new scheme envisaged the creation of a government deriving its power from the people, and to that extent free from interference by the Government of India.

The basic principle of the Report that the progress towards responsible government in India should commence by "giving to the provinces in provincial matters the largest measure of independence of the Government of India" was generally accepted. But

the system of dyarchy which was devised to carry it into effect did not meet with general approval. Indian extremist opinion demanded "a grant of full responsible government in the provinces at once."[1] The moderate opinion accepted "the principle of dualism" but suggested many changes in details. They desired "complete provincial autonomy in respect of transferred subjects, the list of which should be as extensive as practicable.[2] The Provincial Governments, though conservative and cautious, favoured the relaxation of superior control.[3] The Madras Government desired "the achievement of a complete change of view regarding the powers of Provincial Governments."[4] But the Governor of Madras advocated a "wide and far-reaching measure of decentralisation" which should not depend "on the institution of a diarchic system of government."[5] In consequence of the proposed extension of the principle of responsible government in the provinces, Lord Pentland suggested the withdrawal of the control by the Government of India and the Secretary of State from provincial administration to the farthest limit compatible with the security of the Indian Empire. Comprehensive

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[1] Resolution of Delhi Indian National Congress 1918.

[2] First Despatch of the Government of India, 5th March 1919, para 3, p. 588.

[3] Letters of the Provincial Governments. Enclosures to Despatch of 5th March 1919.

[4] Letter from Madras, No. 948, 19th October 1918.

[5] Letter from Madras, No. 1145 dated 31st Dec. 1918, paras 2 and 3.

proposals embracing almost all aspects of provincial administration were made for the delegation of authority to the Local Government.[1] The Bombay Government also, while agreeing with the recommendations of the Report, suggested a statutory demarcation of the Imperial and provincial spheres, and wanted greater relaxation of control in administration by the Government of India.[2] The other governments agreed with para 212 of the Report, though the Government of Burma sounded a note of warning to the effect that provincial autonomy unless accompanied by the maintenance of the supremacy of the Government of India would result in disintegration of the Indian nation.[3]

The Government of India, on its part, favoured the recommendations of the Report in this behalf, and tried further by its suggestions to secure the practicability of the scheme. It admitted that in the past the Secretary of State and the Government of India had endeavoured to be the "financial conscience of the administration", and were inclined to greater interference with the provincial administration. But with the substitution of the scrutiny of the people's representatives, it proposed to withdraw from the existing position and afford greater independence to the Provincial Governments in financial matters. A wide delegation of powers to the

[1] Letter from Madras, No. 1145 dated 31st December 1918 and appendices.

[2] Letter from Bombay, No. 9745 dated 11th November 1918.

[3] Letter from Burma dated 30th November 1918.

Local Governments was recommended. Further it agreed to the separation of revenues and the grant of enlarged powers of taxing and borrowing, though not without restrictions, to the Provincial Governments. The Government of India also defined the limits of its interference with the provincial administration, both 'reserved' and 'transferred'. But in this case it desired to "retain unquestioned control" over the reserved subjects as long as "the governing power of Parliament must preserve its vitality". The proposals of the Government of India would have provided for the enlargement of the authority of the Provincial Governments by alterations in the Financial Codes and other regulations, irrespective of the institution of popular control through the elected Legislative Councils. It wished to carry the process of earlier decentralisation a step further, without subordinating effectively the provincial executive to the control of the legislature.

The subordination of the Local Governments to the Central Government before 1918 had been strengthened by the fact that no statutory line between their respective functions had ever been drawn. The former were merely agents of the latter possessing delegated authority for the performance of certain acts of government. "The path to provincial independence therefore lay through a satisfactory division of functions and finances between the Central and Provincial Governments".[1] For this purpose a Committee was appointed,

[1] Ambedkar p. 219.

subsequent to the publication of the Report, which laid down the principles on which the division of functions was to be effected and prepared lists of the central and provincial subjects. In determining these the Function Committee accepted the dictum enunciated by the Government of India in its memorandum that "where extra-provincial interests predominate the subject should be treated as central", and "on the other hand, all subjects in which the interests of the provinces essentially predominate should be provincial : and in respect of these the Provincial Governments will have acknowledged authority of their own."[1]

This classification was based upon earlier administrative practice and financial settlements which had led to the determination of certain functions as provincial in which the Government of India interested itself not primarily but in its capacity of a supervising and superintending authority. These were classified as provincial, the rest being considered as central subjects. Some functions were performed by the Provincial Governments as agents for the Supreme Government. The Committee distinguished the latter from essentialy provincial subjects and called them "agency functions". The Government of India could henceforth use the Provincial Governments for the discharge of these functions, but responsibility for them lay with it. It had also the

[1] Memorandum by the Government of India to the Functions Committee dated 29th November 1918. Annexure II to the Report of the Committee p. 72 (P. P. Cmd. 103 of 1919).

discretion to withdraw these subjects from the Local Governments and undertake directly their performance. These may also for all practical purposes be styled central subjects.

"Matters of provincial concern" were thus to be separated and "the sphere of provincial activity was defined fairly clearly."[1] But the Government of India was not to be entirely deprived of its control over such subjects. The Government of India memorandum rightly pointed out the basic fact that both the Government of India and the Provincial Governments are subordinate governments and that the former is "responsible to the Imperial Government and Parliament for the administration of India," and "so long as that responsibility attaches to them, they must have the power to enforce it." This implied the exercise of control by the Government of India over provincial subjects unless they had been definitely placed outside the sphere of Parliamentary responsibility. The Committee therefore took this fact into consideration in defining the limits of the Government of India's control over the Provincial Governments. The division of the provincial subjects between the "transferred" and the "reserved" had led the Government of India to suggest the restriction of the "Central Government's power to intervene" in transferred subjects for specific purposes only, but to leave untrammelled

[1] G. N. Singh. Landmarks of Indian Constitution and National Development, p. 563.

its control over the reserved subjects.[1] The Government of India held that "an official government which is not subject to popular control cannot properly be legally exempted from superior official control". It considered it "unwise to lay down any specific limitations upon their (Government of India's) legal powers of interference with Provincial Governments in reserved subjects."[2]

The Committee did not accept this position wholly, because of the change which would be introduced in the relations of the Governor in Council with his Legislative Council, and so desired an authoritative declaration to the effect that "the power of superintendence, direction and control over Local Governments vested in the Governor General in Council under the Government of India Act 1915, shall, in relation to provincial subjects be exercised with due regard to the purposes of the new Act as stated in the preamble."[3] The Committee did not specify the conditions in which such control should be exercised by the Government of India. Nevertheless, they showed a clear grasp of the situation by stating that the distinction between the transferred and reserved subjects "in respect of control exercised by the Government of India has an important bearing on the question of the actual definition of provincial subjects. As long as the Government of India continue to exercise in relation

[1] Memorandum, Paras 11-14.

[2] Ibid, Para 14.

[3] Functions Committee Report, para 22.

to a provincial subject the general control vested in them under the Government of India Act, without any restriction of the purposes for which that control may be exercised, the limitation of the provincial subjects by precise definition is not a matter of great practical importance; but as soon as the control of the Government of India becomes a restricted control which can only be exercised for certain specific purposes, the question of definition acquires new importance and needs very careful examination."[1] It was therefore the transfer of control from the Parliament to the Legislative Councils which necessitated this plan of division. The restriction of the Government of India's control over transferred subjects except for "certain statutory purposes" led to responsible government in some spheres of provincial administration. Yet the division of the subjects into provincial and central cannot be said to mark "the beginning of a federal system", as it did not affect the interposition of the Government of India in provincial administration, other than of the transferred subjects.[2]

The Government of India generally accepted the recommendations of the Committee, though not without suggesting various alterations in the lists of the subjects.[3] The Joint Select Committee of the Parliament also accepted the lists of central and

[1] Functions Committee Report, para 24.

[2] Fourth Despatch of the Government of India dated 16th April 1919, para 7.

[3] Ibid.

provincial subjects as amended by the India Office.[1] These lists were incorporated with the Devolution Rules which defined the scope of the authority of the Provincial Governments and their relations with the Government of India. Remarking, however, on the extent of the control exercised by the Secretary of State over Local Governments, the Joint Select Committee added that "India is not yet ripe for a true federal system, and the Central Government cannot be relegated to functions of mere inspection and advice." Nevertheless they hoped that "there will be an extensive delegation, statutory and otherwise, to Provincial Governments of some powers and duties now in the hands of the Government of India; and they trust also that the control of that government over provincial matters will be exercised with a view to preparing the provinces for the gradual transfer of power to the Provincial Government and legislature."[2] With regard to reserved subjects as well, the Joint Select Committee adopted the suggestion of the Functions Committee that "where the Provincial Government and legislature are in agreement, their view should ordinarily be allowed to prevail."[3] They recommended further that the control by the Governor General in Council over transferred subjects "should be restricted in future within the narrowest possible limits" which should be defined by rules under the

1 Joint Select Committee Report Part I Clause 1.

2 Joint Select Committee Report Part I Clause 3.

3 Ibid. Part III Clause 33.

Act.[1] The Devolution Rules under clause 45 A of the Government of India Act 1919 embody the provisions relating to the powers of the Local Governments and the control to be exercised by the superior official authorities.

The Government of India Act 1919 with its rules was based upon the scheme outlined in the Report on Indian Constitutional Reforms as amended by the Southborough Committee and the Joint Select Committee of the Parliament. The relationship between the Local Government and the Governor General in Council is defined by section 45 of the Act, and it does not materially differ from the earlier one. By the next section (45 A) power was taken "for the classification of subjects," and "for the devolution of authority in respect of provincial subjects to Local Governments." Administrative, financial and legislative powers were devolved on the Local Governments, the effect of which was to give the "Local Governments and Legislative Councils a degree of independence and of inherent powers in the provincial sphere." But this did not imply that the Local Governments have any juristic existence, or that they have authority over residuary subjects which have not been specifically classified as provincial, or that these provisions do by themselves "introduce into Provincial Governments any degree of responsible government."[2] The new

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[1] Joint Select Committee Report, Part III Clause 33.

[2] Government of India Memorandum to Statutory Commission. Part I, p. 7.

constitution by means of devolution achieved the realisation of the two aims of the authors of the report on Indian Constitutional Reforms, viz. "the immediate grant to provinces of a large measure of independence of the Government of India" and "the provision of means whereby the Government of India could secure the due discharge of its own responsibilities." Therefore such machinery was devised as might afford scope for effective "superintendence, direction and control" by the Secretary of State and the Governor General in Council while permitting the wishes of provincial Legislative Council to prevail in certain spheres of administration. Hence the interference of the Secretary of State and the Governor General in Council was limited "in the administration of transferred subjects to specific occasions only and to definite purposes but in reserved subjects the control by the Government of India was by law wholly unrestricted."[1]

The classification of functions provided for the following important services being declared provincial:— local self-government, education (with certain exceptions), medical administration, sanitation and public health, public works, such as roads, buildings and light railways, agriculture, development of industries, excise, civil veterinary department, fisheries and co-operative societies, famine relief, land revenue administration, irrigation, forests, administration of justice, police,

[1] Government of India Memorandum 1928. Part I. p. 12.

prisons, inspection of factories and labour question, registration, ports (except major ports) provincial borrowing, stationery and stores etc. etc.[1] As a result of delegation of authority in the past these subjects had come to be associated with the Local Governments, and their administration was again assigned to them. But now these were statutorily demarcated and the provincial legislature was given absolute control over the following from among them (known as transferred subjects):— local self-government, medical administration, public health and sanitation, education, public works, agriculture, civil veterinary department, fisheries, co-operative societies, forests (only in Bombay and Burma), excise, registration, industries stores and stationery etc.[2] The list of the provincial subjects is not so rigid as in federal constitutions, and the Governor General in Council is authorised to decide in case of doubt "whether a particular matter does or does not relate to a provincial subject."[3] Also the Local Governments are required to furnish to the Government of India "such returns and information on matters relating to the administration of provincial subjects as the Governor General in Council may require."[4]

No division of functions could have effectively freed Local Governments from the control of the

[1] Devolution Rules. Schedule I. Part II.

[2] Devolution Rules Schedule II.

[3] Devolution Rules Part I rule 4.

[4] Ibid, rule 5.

Powers of Local Governments: Financial.

Government of India unless it was accompanied by a separation of financial resources between the two. In the period before 1918 we have seen the Government of India using the financial rod to beat the Provincial Governments into subordination. That was so owing to the absence of any statutory division of revenues, and the Government of India's responsibility for the financial solvency of the Indian Empire. Realising this defect, the joint authors wrote, "if provincial autonomy was to mean anything real, clearly the provinces must not be dependent on the Indian Government for the means of provincial development." Separate and independent sources of revenue (except income tax), therefore, were given to the Provincial Governments. These were constituted of the balance at the credit of the province at the time when the new Act came into force, a share in the growth of revenue derived from incometax, recoveries of loans and advances, payments made by the Government of India or other Local Governments for services rendered, proceeds from taxes imposed for provincial purposes, the allocated revenues and the receipts accruing in respect of provincial subjects.[1] The separation was effected by eliminating the 'divided heads' from the existing financial settlements and allocating definite heads of revenue respectively to the Local or the Central Government according as each fell within the list of provincial or central

[1] Devolution Rule 14. The last was substituted by Notification No. F. 447-23 dated 19 November 1924.

subjects. But as the Central Government under this arrangement was faced with a heavy deficit it was provided that fixed contributions, to be decided upon by a Committee, should be made by the Local Governments to the Government of India. The Meston Committee finally settled the extent of contributions, and these became the first charge on the provincial revenues. In the event, the provincial contributions proved a heavy burden which handicapped the Local Governments in their efforts at development. The unequal incidence also crippled the Local Governments of the United Provinces and Madras, and so it is not surprising that a strong feeling was created against the system. The Committee, however, had recommended its discontinuance as soon as the Central Government was financially strong; and the Government of India remitted the contributions in 1927.

Local Governments were at the same time given some powers of taxation and borrowing, a concession which they had long demanded in vain. "But both powers are subject to statutory restriction."[1] Under Section 80 A of the Act, certain heads of taxation were scheduled and the local legislatures were empowered, without the previous sanction of the Governor General, "to make and take into consideration any law imposing, for the purpose of the Local Government any tax" included in these schedules.[2] For taxes other than these the previous sanction of

[1] Government of India Memorandum Part I, p. 10.
[2] Scheduled Taxes Rules. Notification No. 311. dated 16th December 1920.

the Governor General in Council was necessary.[1] The borrowing powers too were hedged round by conditions governing the purposes for which the loan might be taken, the amount of the loan and the rate of interest, and also by the provision that no loan could be raised without the sanction of the Governor General in Council or the Secretary of State if it was to be raised outside the country.[2] Further, the budget of the Provincial Government had been entirely separated from that of the Government of India and the Local Government was free with the concurrence of its legislature to allot its revenues to specific expenditure

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TAXES UNDER SCHEDULE I

(1) A tax on land put to uses other than agriculture.

(2) A tax on succession.

(3) A tax on any form of betting or gambling permitted by law.

(4) A tax on advertisements.

(5) A tax on amusements.

(6) A tax on any specified luxury.

(7) A registration fee.

(8) A stamp duty other than duties of which the amount is fixed by Indian legislation

UNDER SCHEDULE II

Toll tax or tax on land or land values, buildings, vehicles, animals, domestic servants, on trades and professions, private markets and on octroi. Also water rate, lighting rate etc. All these relate to local administration.

[1] Government of India Memorandum Part I, p. 10.

[2] Local Government Borrowing Rules. No. 309 S. dated 16th December 1920.

except in the cases which had been reserved by executive direction for the previous sanction of the Secretary of State.[1] The Act provided for the establishment of a Finance Department in each province which was to act as the financial conscience of the Local Government.[2] The functions of this department as laid down in the Devolution Rules show that it can allow reappropriations from one head to another within the grant voted by the Legislative Council.[3] The Local Government was also now made responsible for famine relief and capital expenditure incurred by the Government of India on irrigation works in the province and took over the Provincial Loan Account.[4]

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[1] Government of India Memorandum. Part I pp. 10-11.

Reserved Subjects :—

(*a*) Creation of posts, or their abolition, belonging to the all-India services.

(*b*) Creation of permanent posts with a salary exceeding Rs. 1200 p. m.

(*c*) Temporary posts with a salary exceeding Rs. 4000 p. m.

(*d*) Granting of pensions, annuities etc. to deceased servants of Government.

(*e*) Incurring expenditure upon public works affecting the interests of more than one province.

(*f*) The revision of a permanent establishment costing five lacs of rupees a year.

[2] Section 45A and the Devolution Rules Part III Rules 36-38.

[3] Ibid, Rule 38.

[4] Government of India Memorandum. Part I, p. 10, Devolution Rule 24.

The Governor General in Council, nevertheless, was still the custodian of the public moneys, the provincial income being credited to their separate accounts. Resource continued to be a central subject but the Local Governments "have a free hand in the expenditure of their funds."[1] They were at liberty to draw upon their balances, though the Governor General in Council retained a power in times of emergency to require a Local Government, if necessary, "so to regulate its programme of expenditure as not to reduce the balance at its credit below a stated figure, and shall have power to take necessary steps by the restriction of issues of moneys to secure this end."[2]

The abolition of the divided heads, the liberty of appropriations, the freedom to use the balances, and the power, though limited, of taxing and borrowing have set the Local Governments on the path of financial autonomy. A great step was taken in the process of gradual withdrawal of the Government of India from its position of a banker and "financial conscience" examining provincial expenditure "from the point of view of economy, of financial propriety and of the interest of the tax payer," for now the Legislative Council was empowered to act as the watchdog of provincial administration.[3] The Government of India ceased

[1] Devolution Rule 16.

[2] Ibid 21.

[3] First Despatch of the Government of India, 5 March 1919, p. 57.

to be the "residuary legatee" of whatever the provinces collect. Also the Secretary of State delegated largely his financial power of control by altering the financial codes and standing orders. The Fundamental Rules laid down broad regulations and left the details, regarding allowances etc., to be administered according to the rules made thereunder by the Local Governments.

Notwithstanding this relaxation of superior control, the Government of India could not altogether resign its responsibility for the solvency of the provinces. The altered situation and the reorientation of its controlling authority were expressed by the Government of India in the following words: "We also recognise that we are answerable for it that a province does not become insolvent or unpunctual in paying its debts. These duties rest upon us so long as we are responsible to Parliament for the good administration of India. We conceive, however, that with the grant of this new financial liberty to the provinces, we shall no longer be required to watch their financial proceedings in detail, or to enforce from day to day measures which may seem to us necessary to correct financial error. Our intervention in future will take the form mainly of advice and caution; though we cannot ignore the ultimate call that may be made upon us in extremities to issue definite orders which a province must obey if it wishes to retain its constitution."[1] The separation of resources altered the character of the relationship between the Central and Provincial Governments.

[1] First Despatch, 5 March 1919, Para 58.

The revenues of India vest in the Crown and so the Act laid down that their expenditure of such revenues "shall be subject to the control of the Secretary of State in Council."[1] Devolution rule 27 (1) forbad the Local Government to include, "without the previous sanction of the Secretary of State in Council or by the Governor General in Council as the case may be, any proposal for expenditure on a transferred subject in a demand for a grant, if such sanction is required by the provisions of Schedule III to these rules."[2] Specific instances in which such previous sanction was required were laid down in Schedule III, and these related to the creation or abolition of posts reserved for members of all-India services or those carrying emoluments exceeding Rupees 1200 a month, (in Burma Rupees 1250 a month) and to the grant of compassionate allowances, gratuity or pensions to government servants or their families, not admissible under rules in force under Section 96 B of the Act. Such previous sanction was also necessary "to any expenditure on the purchase of imported stores or stationery otherwise than in accordance with "the rules made by the Secretary of State.[3]

In cases other than those mentioned above, the Local Government could sanction expenditure on transferred subjects to the extent of any grant voted

[1] Section 21 of the Act.

[2] Devolution Rule 27 A.

[3] Schedule III to Devolution Rules. Rule 1.

by the Legislative Council.[1] In respect of reserved subjects, however, the Secretary of State had delegated his powers to the Local Government by executive order. Some classes of expenditure were defined which the Governor in Council could not sanction without the previous sanction of the Secretary of State, such sanction being necessary before the Legislative Council was asked to vote supplies to meet the expenditure.[2] But in the other cases the Governor in Council had full power to sanction expenditure upon reserved subjects also. The cases requiring previous sanction included the following in addition to the items mentioned in connection with the transferred subjects:—

(1) Capital expenditure upon irrigation and navigation works and upon projects for drainage, embankment and water storage if it affected more than one province or if the original estimate exceeded 50 lakhs of rupees,

(2) a revision of permanent establishment involving additional establishment charges exceeding rupees 5 lakhs a year,

(3) any increase in the sumptuary or furniture grant of a Governor or any expenditure on original work on his residence the estimate of which exceeded Rupees 50,000, or any expenditure upon railway carriage or steamers for the use of a Governor. In both instances, reserved and transferred, all applications for previous

[1] Devolution Rule 27 (2).

[2] Audit Resolution quoted in Madras Government Memorandum 1928. pp. 92-4.

sanction to expenditure beyond the competence of the Local Government, were to be submitted through the Governor General in Council who could sanction them if the request related to the grant of an increased pay in an individual case or to the creation or extension of a temporary post, otherwise he would forward them to the Secretary of State with his recommendations.[1] The Government of India by this means had been afforded the chance of regulating provincial expenditure of a particular type both in the reserved and the transferred spheres, if it exceeded a fixed maximum. In fact the character of such control remained the same as before 1918, though the limits had certainly been raised.

Legislative.

Prior to 1918 there were some statutory restrictions on the competence of the provincial Legislative Councils to legislate for the province besides the executive order that every bill must be submitted to the Secretary of State and the Government of India for sanction before its introduction. This could not be otherwise because the Legislative Councils were mere adjuncts of the executive government. But with the enlargement of the Councils and the admission of a larger popularly elected element into them under the new constitution, such limitations as were the vestiges of the old days of centralisation should have been withdrawn. By section 80A of the new Act, the local legislature had power to make laws for the peace

[1] Rule 2. Schedule III to Devolution Rules.

and good government of the province. But the Act and the Devolution Rules introduced restrictions on its authority. Clause 3 of section 80A specified the cases in which Legislative Council could not legislate without the previous sanction of the Governor General. Sir Tej Bahadur Sapru, ex-Law Member of the Government of India, writes that this "previous sanction though a personal privilege of the Governor General is in practice given or withheld upon the advice of the Legislative Department; and very often at some stage or other it has a great deal to say about it."[1] Thus the Government of India exercised a real influence over provincial legislation imposing a tax other than the scheduled taxes or affecting the public debt of India, the customs duties or other taxes imposed by the authority of the Governor General in Council, or affecting discipline of the naval, military or air force, or the relations of the government with foreign princes or states, the administration of central subjects, the administration of a provincial subject declared to be subject to legislation by the central legislature and the amendment or repeal of laws declared to be laws which could not be repealed or altered by the local legislature without previous sanction.[2] In addition to these provisions, the Local Legislatures (previous sanction) Rules and the Reservation of Bills Rules limited the powers of the provincial legislatures.

Though the provision of previous sanction was intended to prevent clash of authority made possible

[1] Sapru: Indian Constitution. pp. 110-111.

[2] Section 80 A. Clause 3.

by the concurrent jurisdiction of the central and provincial legislatures, and the list of subjects on which the latter was not permitted to legislate was very small, yet it has to be admitted that these statutory checks subordinated the local Legislative Councils to an "irresponsible executive authority."[1] Nevertheless, the advance from the earlier position had not been inconsiderable. The wholesale submission of provincial bills for previous sanction or review had been discontinued and the conditions under which the bill should be submitted for previous sanction had been specified. But these conditions were so comprehensive that a large number of local bills both relating to the transferred and the reserved subjects did require the previous sanction of the Governor General. The Local Government, particularly the transferred half, resented these restrictions and thought that such rules were inconsistent "with the development of independence of provincial legislation."[2] But still the progress had not been such, and the division of legislative powers between the central and provincial legislatures was not as "scientific," as to preclude all chances

[1] Sapru p. 111.

[2] Reports of the Local Governments on the working of the Reformed Constitution. 1924. Cf. Madras letter No. 532 of 28th July 1924, specially the Memorandum by Mr. A. P. Patro, Minister.

Also evidence of the ex-ministers before the Reforms Enquiry Committee 1924.

Also the Memorandum of the Governments of the United Provinces and Madras submitted to the Statutory Commission in 1928. U. P. Memorandum para 65 and Madras Memorandum pp. 110-112.

of friction between the Central and the Local Governments.

Extent of Control.

The functions which the Local Governments were empowered to perform under the new constitution may be classified as transferred, reserved and agency functions, the last having been taken over by the Central Government in many cases after 1921. In respect of the first two, the control exercised by the Government of India was necessarily limited. Section 45 (1) of the Act subordinated the Local Governments to the superintendence, direction and control of the Governor General in Council and enjoined upon them the duty, as in earlier Acts, of obeying his orders and keeping him "constantly and diligently informed" of their proceedings and other important matters. But the Act itself limited this superintendence "in relation to transferred subjects" to "such purposes as may be specified in rules made under this Act." Devolution rule 49 restricted it to three purposes, namely :—

"(1) to safeguard the administration of central subjects,

(2) to decide questions arising between two provinces, in cases where the provinces concerned fail to arrive at an agreement, and

(3) to safeguard the due exercise and performance of any powers and duties possessed by or imposed on, the Governor General in Council under, or in connection with, or for the purposes of the following provisions of the Act, namely Section 29 A, section 30 (IA), Part VII-A or of any rules made by, or

with the sanction of, the Secretary of State in Council." The last clause was intended to safeguard the power of the Government of India in regard to the High Commissioner for India, borrowing and the protection of the interests of the Civil Services in India. In this way control in transferred subjects had been limited to such matters only as were of an all-India or Imperial interest. This was inevitable owing to Parliament's responsibility for the government of the country. It was presumed that the Central Government would not unnecessarily interfere with the discretion of the Governor acting with his Ministers. Nevertheless in practice, "the lack of entire freedom from higher control has given rise to difficulties".[1] Though generally rule 49 has worked satisfactorily, "there is reason to believe that dissatisfaction has been felt with the manner in which it has been worked in relation to certain matters."[2]

The Government of India being interested in questions like land revenue, police administration, jail discipline and the maintenance of law and order, must retain power to interfere with Provincial Governments to secure uniformity of procedure and efficiency of administration. In respect of services too, particularly all-India services, it must remain vigilant to ensure the fulfilment of the Secretary of State's guarantee in their behalf. For these purposes and for the stability of the British Empire in India,

[1] United Provinces Government Memo., 1928 para 62.
[2] Sapru. p. 100.

the Government of India was allowed unfettered discretion in the reserved subjects. Legally, therefore, the Government of India possessed considerable power of control over provincial administration, both reserved and transferred. But to the extent that the Provincial Governments were responsible to the elected representatives of the people, the Government of India had been restricted in the exercise of its powers of control. Otherwise its extent was as wide before as the reforms.

At this stage it must be asked how far the new constitution (1919) provided for the establishment of provincial autonomy ? The Provincial Governments then constituted had been freed to a great extent from the meddling interference of the Government of India by a large measure of delegation and devolution of authority. A portion of the Provincial Government had been made accountable to the Legislative Council, and in so far was free from superior official control. Their revenue resources had been separated from those of the Government of India and they were empowered to impose taxes and borrow on the credit of their revenues. These are some of the attributes of provincial autonomy. But still the control exercised in financial matters, the clauses relating to previous sanction for provincial legislation, and the general administrative superintendence of the Government of India, necessarily operated to restrict the scope of provincial liberty. The advance towards the goal of provincial autonomy had undoubtedly commenced in 1919 but its realisation was yet distant.

CHAPTER IX

CONCLUSION

The history of the relations of Provincial Governments with the Central Government, as narrated in the foregoing chapters, is one of gradual escape from a position of complete subordination to a position of relative though limited independence. By the Act of 1833 the Provincial Governments were made subordinate to the Government of India and as long as the statutory position remained so, the superintendence of the latter extended to all regions of government, the legislative, the financial and the administrative. As a result of the mid-Victorian economic and political tendencies, the Central Government's control tightened. But even in its success centralisation revealed grave defects. It tended to disharmony, extravagance and irresponsibility. It aimed at uniformity in every detail of administration. But the differing conditions of the various provinces made it impossible to cut them all according to the same pattern. The result was a series of conflicts with the Presidency Governments. At the same time the financial derangement consequent on the Mutiny led the Central Government to seek for fresh sources of revenue. Public opinion also desired association of the people with the government. All these factors contributed to the reversal of the tendency and the

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first step in the long process of decentralisation was taken in 1861 by establishing provincial Legislative Councils. Lord Mayo's scheme of financial decentralisation with its expansion into Baring's quinquennial settlements amounted to further relaxation of control by the Government of India. Gradually by executive orders, by disuse of authority and by the recommendations of the Decentralisation Commission, the Central Government withdrew from a close and detailed control over Provincial Governments. The final step was taken in 1919 when the definite policy of giving to the "Provinces in provincial matters the largest measure of independence of the Government of India" which "is compatible with the due discharge by the latter of its own responsibilities," was statutorily recognised.[1]

The most obvious changes were in the direction of finance, for finance was the chief medium through which the Central Government conveniently exercised its control over the Provincial Government. By successive stages extending from the partial provincialisation of certain heads of expenditure in 1870 to the permanent settlement of 1912, the financial discretion of the Local Governments was enlarged by allocating to their use certain heads of revenue and by relaxing the provisions of a complicated system of codes and regulations. But it must not be presumed that the development of

[1] Preamble to the Government of India Act 1919 (9 and 10 Geo. 5, Chapter 101.)

this fiscal liberty of the provinces came about as a substantive or independent measure of reform. It was simply the necessary concomitant of the gradual loosening of administrative bonds. And because this withdrawal of the administrative superintendence of the Government of India could not be considerable owing to the existing constitutional position of that authority, financial decentralisation too was limited in its character. It could not go far because the provincial settlements were based not on provincial resources but on provincial needs, and because the Government of India continued to be the "financial conscience" of the Provincial Governments and the "residuary legatee" of all the revenues collected in the country. The position therefore in 1918 was not materially different from that in 1870, though there was least interference with the provincial finance. But as the Government of India was responsible for provincial solvency, and gave them "doles" out of its own surplus, the control on their expenditure and a scrutiny of their budgets could not be wholly eliminated.

This leads us on to an enquiry into the statutory powers of the Secretary of State. By section 41 of the Government of India Act 1858, it was provided that "the expenditure of the revenues of India shall be subject to the control of the Secretary of State in Council; and no grant or appropriation of any part of such revenues......shall be made without the concurrence of a majority of votes at a meeting of the Council." Thus by statute the entire expenditure

from Indian revenues was placed under the control of the Secretary of State, who, however, from time to time delegated his authority to the governments in India. Executive orders defined the limits within which the Government of India or the Local Governments could incur expenditure without the previous sanction of the Secretary of State. But that was merely a delegation of authority for "the more speedy transaction of public business." Also the Secretary of State was empowered to "superintend, direct and control all acts, operations and concerns which relate to the government or revenues of India," etc.[1] This gave him complete administrative control over the Government of India which could not therefore "enjoy any large measure of independence."[2] That government was vested with control and superintendence over the Local Governments. Therefore the subordinate governments could not expect to be free from superior control until the statutory position of the Secretary of State was altered. The Government of India Act 1919 provided for devolution of authority to Provincial Governments in the sphere of transferred subjects only and in so far as the administration of those subjects was subordinated to the control of the local Legislative Councils,[3]

[1] Section 2 Clause 2 of the Government of India Act.

[2] Sapru, Indian Constitution, p. 17.

[3] By rules under Section 19A of the Government of India Act the Secretary of State defined his powers of superintendence, direction and control, in relation to transferred subjects, to limited purposes namely—

the provincial Governments were freed from the interference of the Government of India or the Secretary of State. Till then, it was futile to expect freedom of the provincial executives from superior official control for in the absence of any constitutional popular checks within the provinces they must be subordinate to the Government of India and the Secretary of State. The law was clear on the subject. All measures of decentralisation, financial, administrative or legislative,

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(*i*) to safeguard the administration of central subjects;

(*ii*) to decide questions arising between two provinces, in cases where the provinces concerned fail to arrive at an agreement ;

(*iii*) to safeguard imperial interests ;

(*iv*) to determine the position of the Government of India in respect of questions arising between India and other parts of the British Empire; and

(*v*) to safeguard the due exercise and performance of any powers and duties possessed by or imposed on the Secretary of State under or in connection with, or for the purposes of the following provisions of the Act, namely section 29A, 30 (1A) etc..

(No. 835G-14 December 1920. The Gazette of India 1920 Part I. p. 2291).

These conditions, though wide in their scope and liable to restrict the exercise of authority by the provincial Governments in transferred subjects, limited the interference by the Secretary of State and thus allowed liberty to the Local Government to conduct its administration of certain subjects according to the wishes of the Legislative Councils.

could at best be mechanical and merely for administrative convenience.

The early history of decentralisation makes it quite plain. Though a section of administrators and Indian politicians indulged in speculations regarding the ideal relationship between the Central and Provincial Governments and even discussed the eventual establishment of a federation in India, their schemes did not substantially affect the course of development. Finance may be taken for illustration. The arrangements of 1870 were dictated by the pressing needs of the government and the allocation of the transferred services was determined less by theory than by the fact that they showed a tendency to increased expenditure. So also with later developments. Facility in administration, necessity of keeping low the outlay from central resources on non-elemental functions of government and the desire to maintain harmony with the Local Governments were the chief motives governing the expansion of decentralisation. The growing complexity of government and the development of material needs led inevitably to the liberty of the provinces. The discretion of the provincial authorities was enlarged because it was impossible to conduct the administration of a vast country from one centre. Political considerations also had their effect. Circumstances rather than design thus brought about the changes towards decentralisation. Nevertheless, the importance of these theoretical schemes cannot be minimised for they either prepared the public mind to accept the alterations

made in the existing system, or pointed the path for the ultimate demands of political India.

The earlier chapters show a remarkable connection between decentralisation and the nationalist movement. The desire of the people for a share in the government led the Supreme Government to devise means for their association with the administration. The earliest phase of that was the establishment of local self-governing bodies to which was assigned the conduct of local administration. To the extent that the municipal and local boards included popular element they were freed from superior dictation. Further, demands of the nationalists for representative institutions and control over the budget by the Legislative Councils led to the enlargement of the provincial councils by the admission of the elected representatives. This circumstance facilitated the comparative liberation of the provincial budget from the Government of India's control. It had been realised very early that superior official control could not be relaxed unless a corresponding check from within the province by the people was secured. Lord Mayo's scheme of provincialisation of finance contemplated the submission of the local budget to the provincial councils. But no action could be taken on it. Not before the Minto-Morley reforms could any move be made in that direction and then too haltingly owing to the partial character of the experiment in representative government.

The national sentiment could not be satisfied. The demand for responsible self-government found

its concrete expression in the scheme of Provincial Autonomy. The new political programme affected the course of subsequent constitutional changes. The expansion of the Legislative Councils both in number and in power facilitated the emancipation of Provincial Government, though partially from the control of the Gevernment of India. Decentralisation beginning with local bodies in the time of Lord Ripon was extended in 1919 to Provincial Government. The history of relaxation of superior official control is closely related to the popular demand for constitutional or responsible government in the country. "Between the constitutional changes and the attempts at decentralisation a certain parallelism is discernible", for the progress of a vast country like India with its unity amidst diversity could be possible only by means of a federation of the self-governing provinces. But as a preliminary to such development it was necessary to create self-governing provinces by devolution of power to them. The constitutional changes of 1919 by providing for this eventuality had brought Provincial Autonomy nearer and had paved the way for the ultimate establishment of a federation in India.

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